Implications of the Municipal Property Rates Act (No: 6 of 2004) On Municipal Valuations

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DECLARATION

I declare that this research report is my own unaided work. It has been submitted for the Master of Science in Building in the University of Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination in any other University.

(Signature of Candidate)

Day of (Year)

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ABSTRACT

South Africa's past policy of racial separation has influenced challenges to property rates taxes in the country. In the apartheid era property rates only applied to the urbanised white areas and this was mostly influenced by pieces of legislations that were used in the past concerning property rates. The white areas had good infrastructure and services and were willing to pay their property rates, while the blacks were unprivileged: they had poor services, therefore were reluctant to pay their property rates.

After 1994, the post-apartheid era, it was the duty of Local Government to provide services to all municipalities. Local Government was restructured in 2000, in which municipalities were amalgamated and most of the black areas were incorporated as municipalities and this increased the property tax base.

Though property rates collection became popular it was still a problem to implement as different provinces used different rating systems, whereby some taxed both land only and others taxed both land and buildings. These systems adopted were: site rating, composite rating, differential rating and flat rating. These differences in the rating systems were repealed by the new Local Government: Municipal Property Rates Act, 2004, which sought to bring about uniformity in the rating system. The new Act codifies that property should be valued as land and improvements and the value of both land and improvements should be taxed for property rates. The new Act has been implemented since July, 2008, and its impact is illustrated in the research report. These include revaluation of properties, the need for more qualified valuers, increase in the property tax base and updating of the data base.

In conclusion, though the research is limited by the fact that the implementation of the Act was delayed until 2008, the Act has made the valuation process uniform in South Africa. Currently, it is being implemented by the City of Johannesburg Metropolitan Council and the rest of the municipalities. If the council does abide by the terms of the Act, there is a foreseen increase in municipal revenue collection; which if managed well will also contribute to the betterment of municipal services provision and promote willingness to pay property rates.

Suggested areas of research include the following;

(i) A critical evaluation of the implementation of the new Property Rates Act, 2004.

(ii) Performance of the rates collection since the introduction and implementation of the Act and

(iii) The extent of revenue utilisation for improving existing services.

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CHAPTER 1

Introduction

1.1 Background of the study

Property tax in international terms is also referred to as ‘realty tax’, and defined as a tax that is paid annually by individuals/owners of private property to the local government in the city or country in which the property is located (Ching, 2006).

Property tax, also known as property rates in South Africa, is defined by the City of Johannesburg as assessment rate based on the market value of properties which are recorded in the General Valuation roll (City of Johannesburg, undated). It is the type of revenue used by municipalities to provide and maintain the general services to all residents within their jurisdiction. It cannot be charged to a specific service user as a service charge, for the use of public services such as: roads, parks, streetlights and storm water management (Education and Training Unit, 2006).

The history behind valuation for rating purposes in South Africa existed since 1836 and continued till 1994, when a democratic government was formed. In the previous government, property tax only existed in towns and urbanized white areas on a National level; property tax was regulated by several pieces of legislation, which greatly promoted racial separation and brought about a challenge to property taxation in South Africa. The legislation included the Natives Land Act of 1913, Population Registration Act of 1950 and Group Areas Act of 1966 (Slack, 2003).

The Natives Land Act was promulgated in 1913 soon after the Union of South Africa was formed in 1910. The Act restricted ownership or leasing of land reserves established for blacks, coloureds and Indians. The Population

Registration Act was promulgated in 1950 and categorized people into being white, black, Indians and coloureds (for people of mixed race). This Act promoted racial separation in South Africa, whereas The Group Areas Act no. 41 of 1950 and made provision for zones. The zones restricted blacks from entering restricted areas without carrying their identification papers or permits (About.com African History, undated).

These Acts greatly complicated the efforts to amalgamate former white and black local authorities (WLAs and BLAs) for the purpose of property taxation. The segregations resulted in the white areas continually having better properties and better living environments than the black areas, which had little infrastructure and poor services. The whites were willing to pay their property rates and the blacks did not because they did not see the need of paying for poor services rendered in their areas (Bell and Bowen, 2002).

Property rating was regulated on the provincial level by various ordinances including: Transvaal Local Authorities Rating Ordinance No. 11 of 1977, used in Transvaal, Natal Local Authority Valuation Ordinance No. 25 of 1974, Cape Province Valuations Ordinance No. 7 of 1914 and Orange Free State Local Authority Valuation Ordinance No. 18 of 1962 (National Property Education Committee, 1994). Each Province had its own legislation for undertaking municipal valuations and the implementation of the preferred rating system. The rating systems used included; site rating, flat rating, composite rating or differential rating. Although different ratings were used, all municipalities were obliged to collect a prescribed amount of income (in the form of rates) for each financial year. The rates charged depended on the revenue to be collected each year, such as doubling of rates if revenue had to increase (National Property Education Committee, 1994).

The Transvaal Local Authorities Rating Ordinance No.11 of 1977 provided for the levying of rates on rateable property by local authorities and the provisions of this ordinance applied to every local authority, unless exempted by the Administrator from any or all of such provisions. Rateable property under this ordinance meant:

i. Land, including land and any portion of land which is a property of the local authority and which is let by it;
ii. Any rights in land, and
iii. Any improvements in, on or under land or pertaining to any right in land (The Northern Province Consolidated Ordinances and Regulations, 1977).

There were some exceptions made on the rateable property, such as places of public worship and education, a residence of a minister of religion in which that place of residence is registered in a church name.

The ordinance required each local authority to carry out a general valuation at least every four financial years (Hecht, 2006). Unless the Administrator, at the request of the Local Authority and if satisfied with the reasons advanced, could extend the validity of the valuation roll, for not more than one financial year. The local authority set a fixed date, known as the date of valuation. A registered valuer appointed by the local authority inspected and valued all rateable properties, determining the improved value of land or improved value of a right to land, which would be the amount at which such land or right in land would have realised if sold on the date of valuation in an open market by the willing seller to a willing buyer. The valuer also prepared a provisional roll, which was submitted to the Town Clerk, who then published notices in the Provisional gazette, newspapers and to the owners of rateable properties for objections.

There was also a supplementary roll, which was made from time to time during the financial year and included those properties which;

i. Were omitted from the general roll
ii. Have subsequently been included in the local authority area
iii. Were subdivided or consolidated
iv. A division of rates was required

v. Have subsequently become rateable properties
vi. Have been incorrectly recorded in the general roll and
vii. Are railway properties on which rentals have altered.

The date of valuation was the date of the supplementary valuation and not that of the general valuation (JoNews reporter, 2006).

The Administrator, on application by a Local Authority, constituted a Valuation Board, with sufficient experience in valuation of immovable property and who were not members or persons in the local authority concerned, for a period of four years. This board would deal with all the objections lodged. The objections on the supplementary valuations roll were dealt with the same way as those of the general valuation roll (Northern Province Consolidated Ordinances and Regulations, 1977).

The Natal Municipal Valuations can be traced back to 1872. There was then a revised Ordinance No.11 of 1911, which was repealed by the Natal Local Authority Valuations Ordinance No. 25 of 1974. This ordinance maintained market value although the Supreme Courts judgments indicated that the valuers faulted from time to time. A qualified valuer was selected by the Administrator from a group of valuers practising as members of the South African Institute of Valuers, the staff members of valuations or estate department of a Local Authority (National Property Education Committee, 1994).

The valuation of land was separated from that of buildings. The value of land was the price that a buyer would be willing to pay and a seller would be willing to accept, if the valued land would have been in a voluntary sale, on a fixed date if the ownership of the land had no limitations by the local authority or any other statutory body (JoNews reporter, 2007).

The value of buildings was the estimated cost of erection of the building, at a fixed date. Then from this cost depreciation cost would be deducted, which in that case would be determined by the valuer (National Property Education Committee, 1994).

In terms of Township Valuation, the townships proclaimed by the Administrator and all sites in the approved private township were valued as one property and shown as one property in the valuation roll, unless some properties have been let, sold, sold under hire purchase, occupied or alienated (National Property Education Committee, 1994).

Each Local Authority prepared the valuation roll for at least five years. This was done by a group of qualified valuers or a valuer who had compiled the valuations, which would have been deemed to be completed only if valuer(s) certificate was signed to that effect.

There were interim valuations done for certain properties that had materially increased or decreased in value. Any objections that rose were addressed by the Appeals Board, which consisted of not more than five persons and not less than three persons. The board also consisted of a Chairperson with legal background, who solely made decisions on points of law (National Property Education Committee, 1994).

The Orange Free State Local Authorities Valuation Ordinance No. 8 of 1962 (as amended) stipulated that each local authority should value all immovable property in its jurisdiction at least once every five years. The local authority, with the approval of the Administrator constituted a Valuations Department. The Department consisted of one or more valuers and was headed by a competent person. The valuer valued land at the estimated amount that the land would fetch if sold in the open market and the value of buildings was the estimated cost of replacement of the improvement at the date of valuation, minus any depreciation (of the building itself or of the rental value). The valuations made would be added to the Valuation Roll and advertised for 21 days, for inspection by the owners or the local authority or the members of the public (National Property Education Committee, 1994).

The objections would then be handled by the Valuation Court, which was constituted of three members; one either being a magistrate, a retired magistrate or a legal practitioner; second being a member of the local authority; and third a councilor or employee of the local authority. In this case, there was no provision made for public hearing or presentation of evidence, but the court would appoint an assessor for the hearing. The decision made would be amended in the valuation roll and the Town Clerk would advertise for objections. Any appeals submitted would be lodged with the Administrator and reviewed by the Orange Free State Provincial Division of the Supreme Court.

There was an interim valuation that was carried out if there were some properties that were incorrectly entered on the valuation list. For instance, which have been subdivided, improved since the day of valuation or which the value had decreased due to demolition, flood, fire or other disasters (National Property Education Committee, 1994).

Municipal valuations in the Cape Province was handled by each Local Authority, but the procedure was unsatisfactory and all valuations were controlled and done by Provincial Authority, through the Valuation Ordinance No. 7 of 1914, which was then replaced by the Ordinance Number 26 of 1944. The Cape system differed from the other Provinces in that its valuation of land (not including improvements) was based on trial valuations, in which some properties within a Local Authority concerned were valued and then all properties were valued based on the trial valuations.

The Director of Valuations in this Province implemented the Ordinance, determined the date of the general valuation, determined the valuations courts to deal with the Valuation Rolls, appointed valuers, determined the completion date of the Valuation Roll and gave considerations to all valuations that were changed by more than 20% by the Valuation Court.

The valuation of land according to the Ordinance was the price that would be expected to realise if the property were to be sold on the date of the valuation at an open sale by a willing seller to the willing buyer. The valuer's responsibility in this case was to investigate the possible sales that occurred in the past five years in the local area, in order to ascertain if the property values have been affected by any exceptional circumstances. The valuer sometimes used a few properties for trial valuations (National Property Education Committee, 1994).

The ordinances discussed led to different rating systems that were used by different provinces, which led to inconsistencies in the collection of the rates in the rest of South Africa. The different rating systems are discussed below, and the problems that the systems brought prior to the promulgation of the new Property Rates Act, 2004 are defined in the discussion. The new Act brought clarity and uniformity of property rating in South Africa. There were four forms of property taxation and they are as follows: site rating, flat rating, differential rating and composite rating.

i. Site rating- this is a form of rating also known as "Land Value only". It was a tax assessed upon the value of land only or a tax solely based on unimproved value. The rating was prevalent in at least three of South Africa's nine provinces, which were Gauteng, Northern Province (now known as Limpopo) and Mpumalanga. To calculate the value of property applying this method, the total improved value of each property as well as the site value was determined. The site value would then be subtracted from the total improved value in order to derive the value of the property. This meant that the improvements raised the value of the land. Site rating in comparison to other ratings benefited domestic properties (particularly apartment buildings) at the expense of business premises. Seventy (70) percent of all municipal rates collected in South Africa came from cities, which used the site value rating and made no charge on improvements. These cities were said to attract a lot of capital investment. Hence, site rating was regarded as the most suitable rating system in South Africa (Stibbe and Dunkley, 1997).

The site rating method encouraged development of land, because the same tax was paid for an undeveloped piece of land as for a developed piece of land. This form of rating was disadvantageous to the local authorities as the same type of tax was a source of income, which only increased with an increase in the value of land. However, the system had its disadvantages, as the ability to pay of the owner was not taken into account. A poor person could inherit a large piece of land, with a modest house on it and be forced to sell due to high rates payable on the site (Hasseldine and Lymer, 2002). The major disadvantage to this kind of rating system was that, valuation made using this kind of method was not quite complete in determining the market value of a property.

ii. Flat Rating-This was a form of rating on improved capital value. The assessment of a property was based upon the value of land and improvements. This was land value plus the value of improvements, minus depreciation. The rating on land and the structures would thus be uniform. This form of rating was more dominant in the Western Cape, in terms of Valuation Ordinance no. 26 of 1994. Unlike site rating the flat rating did not encourage land developments and provision of further improvements. It was also disadvantageous to the local government as its revenue did not necessarily increase automatically with the development of the town or city. It also threw greater burden upon housing occupied by lower income groups. Nevertheless, the amounts payable were tied up to the owner's ability to pay.

An increase in the developments implied more expenses and more tax payable by the owner (Hasseldine and Lymer, 2002).

The above caused a problem as it discouraged people to develop or make improvements on their property. This led to slums, as the properties would depreciate, and the tax payable would be of no value. There were also illegal improvements made on land in order to avoid taxation.

iii. Composite Rating -This was a form of tax assessed upon the value of land and a further amount upon the value of the improvements at a rate lower than that applied to land. This meant that the land and improvements were charged at different rates. This form of rating was commonly used in Kwazulu- Natal. Better-developed properties benefited from the system. It was a compromise between site and flat rating and therefore reduced both the disadvantages and advantages of the latter two forms of property taxes (Hasseldine and Lymer, 2002).

Most of the municipalities in South Africa used the composite rating, whereby, the site value was added with the value of improvements and the total improved value was derived (City of Johannesburg Metropolitan Municipality,2004). It was more productive for the local authority, depending on the weighting (i.e. amount collected increased with the development). In order to come up with such a figure, the erf or site number according to the registration or rather any description of rateable property was recorded in the Municipal Valuation roll, according to Section 10(1) (a) Traansvaal Local Authorities Rating Ordinance No.11 of 1977. The municipal valuation roll was used to achieve a uniform and fair spread of the rates burden. Hence, market value of each property was required at the date of valuation. To derive the rate, the size or extent of land according to Section 10(1) (b) or extent of portion contemplated in Section 10(2) or 10(3) was determined in meter squared (m^2). Improved value was derived according to Section 10(1) (c); the site value was determined according to Section 10(1) (d). The value of improvement was determined according to Section10 (10) (e) and the name of the owner was established according to Section 10(1) (f). The valuer gave his remarks after the record was made next to the details concerning specific property (Municipality Valuation Roll, 2005/06).

iv. Differential Rating -This rating system was designed to provide tax relief for a particular use or class of property, which may otherwise be heavily taxed due to the amount of development or its size. It was referred to as site or composite rating. It was also referred to as the connection of rating in which the net taxes payable to the local authorities did not represent equal percentage of the values of all properties (Franzsen, 2000). It was commonly used in South Africa for the partial exemption from the taxation of certain properties belonging to the state, of properties used by religious, welfare, and charitable and educational institutions and of properties used for agricultural purposes. In some countries, however the differential rating was mostly used as it was done in a matter of policy and usually designed to reduce the relative impact of taxation upon house dwellers, particularly in the lower income groups (Heath, 1994).

The methods that were used include:

- Partial exemption on sliding scale of single-family living accommodation
- Rebates up to a maximum amount of owner-occupied residential buildings
- The imposition of special taxes on business, such as a levy on business equipment fixtures and stock in trade
- Imposition of local sales and turnover taxes
- Application of different percentages of property taxes based upon the use to which the properties are put (Youngman, 1997).

Nearly all municipalities of South Africa, before the New Act was passed directly levied a tax on the value of land, excluding the value of buildings.

Although the site value had an established history in South Africa, the tax rates were so low that the country had not enjoyed the macro-economic benefits that accrued from the single tax, which were visible in the economic record. According to Feder and Harrison, in the years 1951 to 1984, there was a shift among municipal authorities in favor of raising local revenue from the value of sites alone, rather than the total value of land plus buildings or composite value (Feder and Harrison, 1994).

According to South African Municipal Year Book of 1994, the towns that raised revenue from site value increased from 11 percent to 33 percent of the total cities; flat rate towns declined from 58 percent to 24 percent; while the composite rate towns increased from 31 percent to 38 percent.

Among the largest towns of South Africa, only the two ports, Cape Town and Port Elizabeth, did not adopt the more sophisticated property tax; thus to acknowledge the need to differentiate between land and buildings. They paid tax at a uniform rate on both components of property (Feder and Harrison, 1994).

In the new democratic government, both President Mandela and F W De Klerk understood the importance of local government and the critical role it would play in overcoming the legacy of the previous government. Hence the Local Government roles were codified in the Constitution of the Republic of South Africa (Chapter 3, Section 40(1)). One of the outlined roles was to have an ability to provide adequate services that would depend mainly on the ability to generate their own adequate revenues (Bell and Bowman, 2002).

Initially, local government in South Africa was funded by rates and profits from trading services, including profits from electricity. Efforts were made to limit or entirely remove profits from electricity and some trading services, therefore the local property rates continued to play an increasingly significant role in financing municipalities in South Africa (Franzsen, 2000). The restructuring of the local government in December, 2000 and amalgamation of Municipalities brought about new areas in the property tax base, including former Black Local Authorities (BLAs), after 1982, through the BLA Act, which granted black people full municipality status (Franzsen, 2000).

This was a new era in terms of South Africa's property taxation, as there was now an extended geographic reach of the tax to former black local authorities and the new black areas. This granted the Black communities the right to own real property.

However, this was not a solution, as most of the Black incorporated areas did not pay property rates due to lack of clarification in terms of how it is calculated and where it went to and what it was used for, as their Black areas were poorly developed. Some rates payers as well as government officers in South Africa thought it was a price paid for specific services, not a means to distribute the cost of community services among taxpayers, in accordance with their ability to pay, as measured by the market value of the property (Bell and Bowman, 2002).

This made it difficult for the local authorities to collect the rates, as property owners did not consider the property tax as a benefit tax, hence were reluctant to pay the tax. On the other hand, the local authorities found it difficult to clarify these tax matters, as national government involvement was very narrow in terms of clarification of the tax and providing services equitably. Notwithstanding these difficulties, government initiatives were still made by introducing legislations that would improve property rates/taxes issues (Franzsen, 2000)

In the 1980s, The Rating of State Property Act No.79 of 1984 was introduced which dealt with government owned property. It repealed the tax exceptions that were set for certain governmental properties. It also gave a ruling that government properties were also taxable. However, certain governmental properties still remained excluded from the tax base such as public roads, property held by the state trust or by the national or provincial government for inhabitants of the local area where the property were located. The law also required that government property be given rebates [1](Bell and Bowman, 2002).

In the early 1990s, there was another national statute established, which was the Local Government Transition Act No. 209 of 1993. The statute dealt directly with property taxation; Section 10G (6) assured that there was rating established for all rateable properties and that they would be valued according to the law, while section 10G (7) looked into the problem of differences in the property rates system of amalgamated units. A new demarcation was introduced by local government in the late 2000, whereby the metropolitan was established (Nyalunga, 2006). They were divided as Metropolitan Councils and Rural Areas and were referred to as District Councils. The Act allowed for Metropolitan Council to levy property rates, while district councils could not levy the rates directly, but could only be responsible for some areas within their jurisdiction. Therefore, Section 10G (7) addressed the problem of providing each metropolitan area with the ability to determine a common rating system that was applicable within its area. The provision was also applicable to those district councils responsible for property rating in their areas of jurisdiction. However, the provisions of the section were permissive rather than prescriptive wherever possible (Local Government Transition Act No. 209 of 1993).

In the 1996 Constitution, Section 229 provided guidance, which gave explicit authority to the Municipalities to regulate local property rates, but also demanded that the rates were derived efficiently, equitably and collected by local councils for use where necessary. The local councils were also responsible and accountable for their expenditures on the revenue collected and allocated for service (City of Johannesburg, 2008).

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[1] Rebate- is the percentage reductions in the tax bill that essentially are tax-rate reductions (like a discount)

In 1998, the White Paper on Local Government was passed to strengthen the local property rates, as it recognised that property valuation administration was critical for a property rating system and therefore should be integrated with the other property tax policy initiatives. The White Paper tried to address issues such as bringing the amalgamated into the tax net: whether there should be a continuation in the varying rating systems or there should be a uniform national system of rating as well as the frequency of revaluation and developing a criteria and procedures for tax relief[2] for those who genuinely could not pay the rates. The White paper also drew objectives for local finance, as the property tax was a form of property finance, which included:

i. Local revenue sources that were adequate to cover for local services costs, improve certainty regarding likely amounts of revenue, in order to permit planning of budgets that were reasonable;
ii. Accountability of government actions should be reasonable;
iii. There should be equity and redistribution among and within municipalities;
iv. Consistency with macro-economic policies; and
v. In order to produce balanced budgets there should be effective and equitable use of scarce, available resources along with realistic service provision (Heydenrych, 1998).

With all the legislations mentioned above, the main aim was to have legislation where the whole of South Africa could generate its revenue at the local level with uniformity.

In order to rectify the problem of provinces using the preferred rating systems, The Local Government Property Rates Bill was passed in 2003 (The Portfolio Committee on Provincial & Local Government, 2003). The Bill stipulated that in determining the value of property, land and improvements should be taxed together. This Bill was passed, and now there is a new Act in place; namely The

[2] Tax relief- any reduction in tax liability

Municipal Property Rates Act, 2004 (Cox, 2007). In order for municipalities to achieve this rating system, they had to adopt a Mass Valuation, which is a process where properties are valued according to a township. Properties are valued using the same valuation method for all Provinces and given the same rate that applies for that particular township. This method continued from 2004 when the New Act was passed, until July 2006, when the Municipal Property Rates Act (no: 6 of 2004) was to be implemented by all municipalities. The implementation period was supposed to be carried out for four years, which is from July 2006 until July 2009 (Interview with Mr Choabi, Valuer, 2006).

The Municipal Property Rates Act (no: 6 of 2004), was passed in order to bring about clarity and uniformity in the property rating system in South Africa. The purpose of this research is to find the implications of this Act on municipal valuation.

1.2 Statement of the Research problem

1.2.1 Problem Statement

Until 2004, there was no uniformity across provinces in the property rates systems and the rate collection in South Africa. This stimulated differential property tax ratings and varying degrees of infrastructure services provision across Provinces and Municipalities.

The restructuring of the Local Governments in the year 2000 was therefore followed by the introduction of the Municipal Property Rates Act (no:6 of 2004). The purpose of the Act was to significantly alter the basis of property rating and municipal valuations in South Africa. However, the impact of its implementation and potential challenges are unknown; but there are foreseen challenges that may manifest particularly on the following:

i. Identifying of the taxable property and the tax payers
ii. Maintenance of taxable property database
iii. Methodology of assessing taxable value
iv. Infrastructure and human resource requirements

1.3 Research Questions

The study is guided by the following questions:

i. How does the current legislation relate to property rates in South Africa?
ii. How will the new Property Rates Act impact on the ratings of property in South Africa?
iii. How will local government be challenged by the implementation of the Municipal Property Rates Act (No.6 of 2004)?
iv. How will the implementation of the new property Rates Act change the old rating system in terms of efficiency, cost and benefit for local government?
v. What are the expected challenges that municipalities will be faced with from the transformation of using a uniform rating system, of land and improvements?

1.4 Objective of the Study

To analyse the new Act, its impact on the previous property valuation systems, and the factors of the new valuation system that will impede the implementation of the Act.

1.5 Significance of the Study

The purpose of the research is to establish how the present property rating is being regulated in Municipalities and the possible changes that the new Act may bring.

Under the new system, property rates collection will be according to the regulations and procedures envisaged in the Municipal Property Rates Act (no: 6 of 2004). With the new Act being implemented in July 2006 till July 2009 the research report will determine the impact of the New Act on the property valuations and rates revenue that will be collected by municipalities.

1.6 Hypothesis

The hypothesis is that,
"The Property Rates Act offers significant advantages in ensuring equity in the determination of rateable value compared to the previous Property rating systems".

1.7 Research Methodology

1.7.1 Research Method

The researcher used a descriptive approach, whereby data was collected to define or describe some group or phenomena (Kennedy, 2006). The descriptive research has two forms, which are qualitative and quantative method. In this study the qualitative method is used. This technique (qualitative) allowed the researcher to judge the usefulness of specific policies, practices, as well as innovation (Neuman, 1994). This method was used in order to give a descriptive illustration of how the data was collected, the findings and analysis of the research.

1.7.2 Method of Data Collection

To collect data, two processes of data were used, namely primary data and secondary data. In collecting primary data an imperial approach was used, whereby the researcher created a research strategy best suited for the research, by conducting the research in a natural environment. This was done by undertaking an interview with the following interviewees: officers, candidate valuers, one senior valuer and the Director Valuations at the Municipal Valuation office at The Metropolitan Council, in Braamfontein. To add on, the researcher interviewed two private valuers; one a bank valuer and the other a private valuer,

The researcher used the participatory observation method by asking open-ended questions during the interviews and taking notes rather than using a tape recorder to ensure comprehensive encoding of information.

Secondary data was also used, utilising existing relevant data from books, policies, Acts and ordinances and newspaper articles/ magazines.

The researcher used a case study, as The City of Johannesburg Metropolitan Municipality was the first municipality that implemented the New Act. City Cape Town Municipality was the first municipality to implement the Act as it had been using the valuation method that the Act compels all municipalities to use. City of Johannesburg was in this case the first to implement the Act using the land and improvement approach. The focus of the report is how the Act was implemented, how the transition affected the Valuation department as well as the public as a whole.

1.7.3 Data Analysis Strategy

The aim of data analysis is putting together the structure, order and meaning to the mass of collected data. For the purpose of this research, the data collected was organised using computer database Microsoft Word and Excel for efficiency. To establish clear message and comprehension, the data was repeatedly read, whereby the researcher tried to identify statements that were relevant to the topic and separating relevant and irrelevant information collected in the secondary data and in the interviews. The relevant information was then divided into segments, then categories that reflected different meanings of the facts discovered. The data was then integrated and summarized.

1.8 Research Limitations

This research report is limited to give a correct analysis of the Act or the implication of the Act on property valuation, as property valuation and rating have not been established to be equitable, clear and transparent.

Firstly, the research is limited to the nature of property valuation and the property rating equitability; hence the research is limited to establish if property rating is uniform and equitable. Property rating has been tested not to be equitable across all nations. This is so because properties have different categories of which different methods of valuation have to be applied for each property. Even when properties are of the same type, for instance, two residential properties cannot be identical, hence valuations adjustments are made with regard to what the property has that the other property does not have. Hence why, the collection of rates cannot be equitable, even when a uniform system of valuation is applied, being land and improvements in the case of South Africa (Oats, 2001).

Secondly, the research is limited to the fact that property rating differs across borders depending on the economic situation of the country. The analysis made currently on the implementation of the Act may differ in the future based on the economic situation in the country at that time of re-valuation. Property rating is usually indexed to the inflation rate by other countries. If there is a high inflation rate, then the rate to be applied to the property values will be lowered or increased depending on what the decision of that country may be. For instance, in California property values may increase with the percentage increase in inflation. While in Florida, it is limited to the increase in Consumer Price Index

(CPI) (Makhailov, 1998). In South Africa, the fear was that the New Act, compels all municipalities to use the same formula to levy property taxes, despite the fact that some municipalities may have little development growth or development challenges and the increases for each category of properties will be limited to the annual CPI, which does not take into account the massive growth in the market value of properties over recent years (City OF Johannesburg, online).

Thirdly, the research is also limited to discuss possible outcomes of the Act; as the Act itself has a prescribed way of how the valuation and rating have to be carried out. For instance; in terms of how the valuation has to be done, the exclusion of some properties in the property taxation, the collection of rates and dispute or objections handling.

In terms of property valuation, the Act is permissible in terms of Section 15 of the Act to allow for rebates, exemptions or reductions in respect of the assessment rates. The Act sets out criteria to reduce the burden of rates for potential beneficiaries. But the Municipal financial budgets fail to show the financial implications of these. The concentration is on the revenue collected and not the actual revenue that was supposed to have been collected, had there been no exclusions, exceptions and rebates. Hence, the researcher is limited to making a full analysis of the tax base.

In addition to the limitations, the Act requires that assessments rates levied on newly rateable properties be phased in over three financial years, with no rates levied for the first year. This again, limits the research to get a comprehensive analysis of the revenue collected in the first four years of the implementation of the Act.

The Valuation roll on the other hand is to be reviewed every four years and to be advertised for objection for a period of 30 days. If there are any objections made to the property, the objector or owner of the property is compelled to continue paying his/her rates, whilst awaiting the final decision of the Appeal board. This at the same time limits the research as the valuation roll may not show a true reflection of what the property values are.

Lastly, the research is limited to Johannesburg Metropolitan City Council, in Braamfontein, Johannesburg, as this council is the first council that had to implement the Act.

1.9 Structure of the Report

This report comprises seven chapters. The first chapter introduces the topic and the need to implement the new Municipal Property Rates Act (no:6 of 2004) and the Research approach.

Chapter two presents the literature contributing to the study. The chapter introduces the history of property rating and the methods used to determine the value of the property in order to calculate the rate for a particular property.

Chapter three is part of the literature review, introducing and analysing the new Act in order to determine its significance and what it entails that differs from the past legislation and its implication on municipal valuation.

Chapter four defines the methodology used to carry out the research. It also presents the case study, from which data was mostly gathered and which is the office at which the valuations and ratings have been made for the whole of Johannesburg.

Chapter five is the presentation and analysis of data collected.

Chapter six is the conclusion made from the findings.

CHAPTER 2

Literature Review

2.1 Introduction

The literature reviewed contributes towards a clearer understanding of the nature and meaning of the problem that has been identified. This is illustrated, firstly by showing how property taxation takes place in South Africa. The chapter then provides a description of the Municipal Valuation and how it is carried out in order to levy property rates on the market value derived from immovable properties. The reasons why property valuations differ, the Mass Valuation approach, how property rates are determined, why property tax systems exist and the criteria used for valuation for revenue sources are discussed. Furthermore, use of property rates collected are used for, analysis and views made by different scholars and their ideas about the property tax are discussed and finally a discussion on the reasons why the property tax cannot be equitable and efficient.

2.2 Property Taxation in South Africa

Taxation at Local Government level is the collection of municipal revenue or rates from fixed property. In order for the municipality to collect the revenue, certain procedures are to be followed. First of all, there has to be an establishment of the area to be valued for the purposes of rating. The Municipality finds a valuer or appraiser to do the valuation or appraisal of the property. The valuer has to be very accurate in doing this in order to come up with a convincing estimated property value which will be given a property rate, to be paid by the owner of that particular property valued for as a form of tax. (Stibbe and Dunkley, 1997).

As mentioned above, an owner of fixed property, which is defined as land, houses, factories or office blocks, in a municipal area is charged property rates. Property rates collected are used as a form of revenue for the Local government to cater for planned expenditure; the expected income is then placed in the local government budget set aside for municipal purposes.

Local Government municipal councils have to prepare their individual budgets every financial year starting from the 1st of July every year, based on the income they can generate or rather that is allocated to them. There are two types of municipal finance, which are the Capital budget and the Operational Budget (Education and Training Unit, 2005).

2.2.1 Capital Budget

This kind of budget deals with big costs, which are once-off payments for development. This money is usually put aside for long-term capital projects, for example, sewerage pipes fittings in a certain area. The main sources of this kind of finance are Government grants, internal and external loans, contributions from revenues, donations and public or private partnerships (Education & Training Unit, 2005).

2.2.2 Operational Budget

This is a budget that deals with day-to-day expenditure and income based on the forecasted revenue during a given period (normally a year), to deliver municipal services. This is considered to be a short-term budget. This finance is derived from property rates, service charges, investment interest and tariff fines (Education & Training Unit, undated).

Having discussed briefly the Local Government Budget, it becomes apparent that property rates, are part of the municipal finance, and fall within the Operating Budget Finance. Below, municipal valuation, and property tax in South Africa are discussed.

2.3 Municipal Valuation and property tax in South Africa

Property rates are taxes on the ownership of property, based on the municipal value of the property. They are used to fund various services provided by municipalities. Property rates are calculated by multiplying the market value; derived through valuation of property, in order to determine the basis share of the total rate revenue required that each ratepayer has to pay of immovable property by a cent amount in the Rand determined by a municipality. However, different rates are levied for different types of properties such as; commercial, industrial, residential, agricultural and government properties (Capegateway, 2006).

According to the new Municipal Property Rates Act (no.6 of 2004), the tax base is the market value of land plus improvements, which are to be taxed together and not separate as it was done in the other Provinces in the past before the Municipal Property Rates Act (no.6 of 2004) was implemented (Government Gazzette, 2004). In this case most municipalities have adopted the Mass Valuation system. However, it is not the intention of the City of Johannesburg to increase its income but to ensure that all properties are valued based on their market value of land and buildings (Makapela, 2008).

Local Government, for example Johannesburg Metropolitan City Council uses the Township Mass Valuation method, to determine the market value of properties (South African Cities Network, 2009). Qualified valuers are expected to know the different valuation methods used internationally and locally, for different categories of property. There are different methods applied in valuations in order to get to the value of a property. The approaches help in identifying the highest and best use of a property (Wilson, 2003). Once the market value of the property has been determined, a rate is applied to the value of the property; to derive the amount to be paid by a property owner, collected monthly as a form of revenue for the Local Government to be used for improvement or development of services. The approaches that are to be used by valuers for the purposes of the tax are as follows:

i. Comparable Sales Approach
ii. Income Capitalization Approach
iii. Cost Approach
    a. Reproduction Cost Approach
    b. Depreciated Replacement Cost Approach
iv. Mass Valuation Approach

2.3.1 Comparable Sales Approach

This is the method where a subject property is compared with comparable properties that have been sold recently, in order to estimate the market value Lesko, 2008). This is done by looking at a particular market, identifying the property transactions involved in the sales, and the prices paid, then comparing with the common and different features of such properties to be valued (Norman Griffiths and Associates, 2005).

2.3.2 Income Capitalization Approach

Also known as the Income Capitalization Approach, this approach is used to analyze the property's potentiality in terms of future benefits, in which income is capitalized to get an indication of the present value. This method uses techniques and procedures that are used to analyse comparable sales data and to measure obsolescence[3] of the property. In this method the valuer determines the income generating potential of the property and determines the price that the potential investor will pay for the property (Appraisal Institute, 2001).

2.3.3 Cost Approach

This is a procedure that is used to derive property value; in comparing the cost of building a new or substitute property, plus any profit or incentive in doing so. Then deducting depreciation from the total cost and adding the estimated land value (Betts & Ely, 2005). The cost approach involves five basic steps:

i. Estimating the value of land in comparison with the market, as if the land is vacant and available for use.
ii. Estimating the cost to reproduce or replace the existing improvements on the date of valuation.
iii. Determining appropriate amount of accrued depreciation amount.
iv. Deducting the depreciation value from the cost new of the improvements.
v. Adding the depreciated cost to the estimated land value, to derive the property value (Betts and Ely, 2005).

There are two methods in this approach, which are the Reproduction Cost and Depreciated Replacement Cost. These methods reflect the two different ways of looking at a new structure to be built in place of the existing improvements.

2.3.3.1 Reproduction Cost Approach

This is a method whereby the cost of construction is estimated, as of effective valuation date, a replica or duplicate of a building being valued. With the use of the same material, construction standards, design layout and quality or workmanship embody all the deficiencies, super adequacies and obsolescence of the subject property (Boone, 2007).

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[3]Obsolescence- the state of being old fashioned and no longer useful. For property there is physical, functional and economic obsolescence.

2.3.3.2 Depreciated Replacement Cost Approach

This method involves putting up a building which is required for the current use, with the utility equivalent to the building being valued, using contemporary materials, usually lower than the replacement cost (Betts and Ely, 2005).

The valuer estimates the costs of replacement using one of the three techniques;

(i) Comparative unit method - which is used using the cost of material per square meter.

(ii) Unit in place method - which is calculating prices of each item to be used, for instance the price of door knobs, windows, to mention a few.

(iii) The Quantity Survey method - where every item is valued at that point (Betts and Ely, 2005).

2.3.4 Mass Valuation Approach

Mass valuation approach is a property valuation method of which large volumes of data are used including: sales, income, expenses and construction costs. This applies to valuation of many properties in a common area or neighbourhood, as of a given date, using standard procedures and statistical testing. That is valuation models for mass appraisal should show the demand and supply patterns for groups of properties and not for individual properties. The valuation has to be tested in order to establish analysis acceptability and if it has reached the objective criteria. In the same way as a single property valuation Mass valuation is predicted on highest and best use principle (International Association of Assessing officers, 2008).

The advantage of this method of valuation is that it creates fast accurate value estimates at a low cost than the Single Property Valuation. According to the International Association of Assessing officers, 2008, only Mass Valuation method can address uniformity and equity in the assessment of properties. This is what the New Act wants to derive in property valuations, hence why the City of Johannesburg Metropolitan Municipality is using the Mass Valuation method.

This is done by stratifying and grouping of comparable properties, then establishing common property attributes in each group and applying a uniform valuation model for each group, using market related value based on the already established market related information for each property group.

There is software that is used for this method of valuation called Computer Assisted Mass Appraisal (CAMA) that is normally used by government agencies in order to help establish property valuation. This software relies on statistical models such as multiple regressions analysis or Geographic Information systems (GIS) (International Association of Assessing officers, 2008). City of Johannesburg Metropolitan Municipality uses the GIS system as there is a GIS department that compiles this kind of data which includes; digital maps, property descriptions, size, location or area, the zoning of the property and the SG diagrams making it easier for the Valuation Department to use the Land Information System (LIS), by adding on the relevant information, to mention a few: Building plans, construction materials, building costs, room counts and structural improvements of properties. The LIS assists in recording and making adjustments to the already captured data that relates to properties' location, size, characteristics, improvements and the levels of values, in order to derive estimated values of properties, at the same time considering the differences that they may have even though they maybe the same kinds of properties in one location (Interview with Mr Kotze, Deputy Director Valuations, 2006). For instance, in a complex, properties may be the same, with the same number of rooms, same build form, but the unit sizes may differ based on the location of the unit on site. Same with a house in the same location with the same number of rooms may have a different value based on the finishes; one may have a pool, while another may have a balcony, to mention a few.

Mass Valuation needs professionals, such as valuers, who are trained to use the CAMA system and who will continually update the information on the programme, in terms of current database of property attributes and market information. The results obtained should have a relationship with previous data and rationale for changes (Bagdonavičius and Deveikis, 2005).The City of Johannesburg had to update the systems in order to make use of the LIS, hold trainings on the use of the system for the existing and new valuers. In this case the City of Johannesburg had to inject more into their budget in order to comply with the New Act (Interview with Mr Kotze, Deputy Director Valuations, 2006).

According to Anders Müller 2001, there is a practical approach to mass valuation of dwellings, thus as follows;

i. **Basic description of properties** - in which all properties are identified physically, on aerial photographic maps or through GIS, by their plot numbers for valuation. In this case the location of the property is important, the land rights (the size of the stand and the permitted land use), the size of the building, age, material and the quality of the building.
ii. **Gather market information** - this is an important part of the valuation process and should be carried out regularly. The information to be collected is property sales and rentals and this can be obtained from registered sales, estate agents records, land Registry and construction costs.
iii. **Valuation** - this is a process where the market analysis is made in order to attempt to determine how the factors (size, age and location) influence the sales prices. Different prices are used depending on the quality, location and the square meterage of land to be valued. Valuation models, such as Mathematical models and tables of values per square meter are used as a result of the market analysis of different types of land and buildings in order to determine a taxable value of each property. The valuer has to reassess the value deprived, if they represent the right

estimate of the market value. This is crucial for large properties in unusual locations.

2.4 Why property valuations differ

Griffiths and Associates (2005) stipulate how property valuations differ in terms of location, area and right of properties as mentioned above. The differences are illustrated below.

2.4.1 Location of Property

Location plays a huge role in determining property value. Some suburbs are in more desirable locations than others, and various properties in an area may have a similar location value. An individual valuation takes into account whether the property has a desirable view, or is located on a noisy road. City officials survey typical market rates in each area to determine market-related values.

2.4.2 The area of the land

This contributes to the value of a property. Generally, the larger the property the greater its value. This means that the land can be subdivided and have a new or different use on the property depending on what the prevailing use around the area is. Note: It can either be negative or positive (Griffiths, 2005).

2.4.3 Rights of the property

This influences the value of a property, each property is granted certain building/zoning rights by the city's planning department and these are keys to the property's value (Griffiths and Associates, 2005):

i. A property with commercial or industrial rights is more valuable than one with only residential rights - even if there is only a private residence on the property.
ii. The more floors a building on the property is permitted to have, the more valuable the rights, even if the existing dwelling is only single-storied.
iii. The greater the building coverage allowed, the more valuable the property.

Local Government valuers, used Mass Valuation System[4], which is a process whereby properties are valued according to their township location and the same property rate is applied for that township. With consideration that the rates collection is kept as low as possible and the mass valuation is done as cost effectively as possible. This type of valuation is practised since the implementation of the Municipal Property Rates Act (no: 6 of 2004) (Interview with Mr Choabi, Metro Municipality, 2006).

2.5 How property rates are determined

Property rates are derived by multiplying the market value of immovable property (land and buildings) by an amount in the Rand that is determined by a municipal council (City of Tshwane Metropolitan Council, undated). For example, if the market value of a property (land and buildings) is R50 000 and the cent amount in the rand is R0.015, the amount due to property rates is:
R50 000 x 0.015=R750 per annum meaning that the rate payer/owner of the property will pay R62.50 per month on rates.

Property rates are paid by owners relating to all kinds of real property including, commercial, industrial, residential, agricultural and government properties. Municipalities apply the property rate to the market value of properties. However, Municipal Councils are at a liberty to reduce or increase rates, if they wish to

[4] Mass Valuation system- is the valuation of all the ratable properties in the municipality concerned as at a given date.

maintain their future finances from rates, more or less at current levels (Local Government, 2004).

2.6 Why property tax systems exist

The property tax or property rates, is revenue raised by the municipality by collecting tax from all people and businesses that own land and buildings (fixed property) within their municipal jurisdiction, based on the estimated value of the property. As mentioned above, they track the valuation of properties by having a Valuation Roll, in which the Municipality lists all the fixed properties in the municipal area, as to who owns them, and how much the value of land and buildings is estimated to be. The rates are determined on the value of the properties and the values of the properties are expected to always be up-to-date in order for the rates to always be fair for each property (Education and Training Unit, 2006).

In order to establish the fairness and equitability of the property taxes the criteria to be used by all valuers, concerning valuations for property rating purposes and for all Councils to maintain their revenue inflow will be discussed below.

2.7 Criteria used for valuation for revenue sources

These are the tests to be used to value all kinds of revenues; in this case, it is applied to test the valuation of property for property tax purposes. All Local Government or other revenue institutions are supposed to consider the following principles before charging property rates (Department of Local Government, undated);

i. **Fairness** - the tax must be administered in a fair and uniform manner. Considering the value of the asset, relief where necessary and looking at the ability to pay of a person.

ii. **Efficiency -** the tax should be used efficiently terms of its administration in order for people to see need to pay. The tax should not affect people's behaviour nor interfere with the economic activities, to a point where people consider it unattractive.

iii. **Affordability -** in this context, also known as an economy of collection, this means the tax collector should find it economical to collect the tax and the tax payer should consider the tax as a compliance cost.

iv. **Adequacy -** the tax rate that will be determined should be done by a professional valuer and calculations made should be accurate. It should be the exact amount, not less or more than it has to be.

v. **Transparency -** from the initial stage the valuation process and its outcome should be very transparent to the taxpayers, in order for the tax to be legitimate. The way the tax base and the way the rates are levied should be understandable and clear to the taxpayer.

vi. **Equity -** this means that the tax should be equal to all tax payers within the same taxation jurisdiction. There should be horizontal equity[5] within similar properties and vertical equity[6] within different properties (Julyan, 2004).

In this case, all councils should try and use these tests before they apply the property rates to avoid queries from property owners, that are time consuming and costly. As the main aim of the municipalities is to maximize revenue as their source of income and incur minimum costs as much as possible.

2.8 Theory of Local Property Taxation

The aim to generate income for Local Authorities does not only apply in South Africa. In the United Kingdom (UK), for instance, in the effort to find a way to generate more income for local authorities, a poll tax was introduced, which

[5] Horizontal equity-tax payers of similar properties value should pay the same tax.
[6] Vertical equity- tax payers with different property values should pay different tax amounts that are based on the underlying market values then

replaced domestic tax. The poll tax is a capital tax levied equally on every adult in the community. The tax has long been attacked as being an unfair burden upon those less able to pay. In the US, the poll tax has been connected with voting rights. People did not pay the tax, as a result the property tax was reverted, in which the rates were based on the freehold value of domestic property and rental value was charged for non-residential property. The domestic rates liability relied on the person occupying the house at that time, for example a tenant, not on the ownership of the property. Rebates and discounts depend on certain levels of income as well as certain property categories. For example, those homes in high bands paid higher rates than those in the lower bands and those with low income or value got 100% rebates (Wilson, 2003)

Notwithstanding the fact that, it is the aim of all governments to generate revenue for the local authority, rating of properties does not really come as a tax on land and improvements, to discourage development, but should also be seen as a benefit tax, that will also promote efficient public decisions. This is evident in the discussions made by some scholars that property tax seems to be the right choice of tax at the local level which shall be discussed in the following paragraphs (Oates, 2001).

According to Oates, 2001, there are currently two general and competing theoretical views of property tax as a local tax. There is a "*benefit view*" and a "*new view*" of the tax.

The benefit view, which can be understood in the setting of a local finance, comes as a benefit for the public more than it is a tax. It is argued that the benefits from the local public programmes and the cost of the property tax liabilities can be capitalised into promoting property values. This is explained as the low crime rates and low tax rates manifest themselves in the price of dwellings. This means that people are willing to pay more to stay in places with good services and low taxes, this is where people recognise the need to make decisions of which benefits outweighs costs in order to promote their property values (Wilson, 2003).

Though the above view is seen as a benefit for the costs paid, it is not universal; some scholars, in the new view, see the property tax as a levy on capital that distorts housing markets and local fiscal decisions. Since the tax involves land and improvements, it discourages development, leading to under utilisation of land due to the inflated cost. Economically, this is seen as a capital-land ratio that is too low, where the capital used for a unit of land is not an economically efficient amount. These results in urban sprawl, people will move to places that still have lower rates outside cities (Oates, 2001).

Despite the fact that the two views are illustrated as competing views of the property tax, they are both valid, they give a view of how property tax works in the local public finance setting. Regardless of which view of the local tax is more or nearly correct, the tax does provide local residents with enlightenment in making fiscal decisions. Looking at real life settings, it is well known that the property tax is not a benefit tax completely. For example, if a property owner does improvements to the house, there will be an increase in rates as the property has now gained value. Hence, it will be argued again that the property tax does discourage development (Oates, 2001).

Having looked at the different views to the property tax, the use of the tax is discussed below with respect to real life settings. Property tax utilisation is almost the same in all countries, especially at the local level.

2.9 Use of the Property Tax collected

In most countries, property taxation revenue is used for whatever it is that the local governments do, thus for general services (FAO Corporate Document Repository, 2005). For example, in the United States property tax provides nearly all local school district tax revenue, with which is a revenue for education, public safety, highways and governmental administration. They also use their property tax revenue for services required by those living in poverty stricken areas, in which is said to be a benefit tax (as they benefit from the property taxes) (Oates, 2001).

In a speech made by Erika Naude (2007), The City's rates and Taxes Director, South Africa's property rates contribute about 20 percent of the City's total income and the money derived is used for funding a variety of services that benefit all residents, including public facilities, emergency services, public safety, streets lights, clinics, community centers and parks (Makapela, 2008).

The US tax rate is determined by the amount of tax levy, looking at the taxing jurisdiction (school, town, county), that develops and adopts the budget and then the revenue from all sources, other than the property taxation (sales tax, state administration) is determined. Then the revenues are subtracted from the original budget and the remainder becomes the tax levy, which is the amount of the tax levy that is raised through property taxation (Office of Real Property Services, 2006).

Property tax also plays a huge role in decentralisation and the autonomy of local government (City of Tshwane Metropolitan Council, undated). This is so as the local government raises the revenue independently and has the power to use the funds in accordance with the needs and within limits of their legal powers. This means that the local government will not have to wait for the central government grants but will use its own revenue for its diverse projects.

In South Africa the property rates revenue is used by Municipalities. They collect the revenue locally, thus the locally elected municipality sets the rates and spends their revenue collected (Johannesburg News Agency, 2004). The national and provincial governments do not impose these taxes nor do they share in the revenue collected. Municipalities collect the property tax revenue for protection of public health, assuring public safety, and safeguarding the local environment. It is the revenue that is used to fund services that benefit the community as a whole as opposed to individual household. Examples of such services are, installing and maintaining the streets sidewalks, lighting and storm water drainage and building and operating clinics, parks and recreational facilities. It is also used to fund municipal administration, such as computer equipment, stationery, and cost of governance, such as community and council meetings. Some Municipalities use the revenue to help provide basic services to those who cannot afford to pay although equitable share funding from the national government covers most burdens (Johannesburg News Agency, 2004).

2.10 Reasons why Property Tax cannot be equitable and efficient

Property taxation is a major source of revenue to all local governments in different countries. However, it has challenges of equity and efficiency (South African Cities Network, 2006). A clear illustration of the two will be explained as follows:

A property system must achieve being fair across all taxpayers within a jurisdiction in order to be accepted easily. Taxpayers with the same property values must pay similar tax (horizontal equity), however, those property tax payers with different properties should pay different rates proportionate to their kind of properties depending on the market values at the time (vertical equity). This can only be met if frequent assessment of the sales is done to determine whether these equity objectives are met. On the contrary, in real life observation there are no identical properties; the differences may be in the tax varying with a factor or two (Owens, 2000).

While with the efficiency of the property tax, the major thing is to avoid waste, by making the administration and the compliance of the Act simple. It is possible to avoid excessive resources required to make the tax function. This means the tax should be easily collected and economically administered in order to see its worth. This can only be done if all properties within the country are taxed with fairness. For example, government property and rural property should be included into the tax base. Most of the government properties around Johannesburg are exempted from paying rates and taxes; therefore do not contribute much to the tax base. There are lots of government properties around, which occupy lots of land, which could add so much to municipal revenue if valued and included in the valuation rolls. But, in the case of City of Johannesburg, only income generating government owned properties are included in the tax base. Departments that occupy such properties should be given the obligation to pay their property rates, once the properties are valued and rated. They should also pay the normal rate and no exceptions should be made, then there will be an increase in the Municipal revenue, which will consequently bring better services for Johannesburg as a whole.

Some scholars see property taxation as a major problem as it relates to the appraisal process. As the market value is estimated for property taxation purposes and that assessed value of a property is set at market value or at a prescribed fraction of the market. This system perpetuates inequality in property taxes. Property taxation cannot be efficient and equitable due to the fact that the amount of tax that the property owner is supposed to pay is the product of the valued or assessed property value multiplied by the property rate. Again, taxation differs in different countries; some may be classified according to a fraction of full value of the property or through varying the tax rates according to property category or both. For instance, the tax rate for a residential property will differ from that of a commercial property. The other problem is failure to value property periodically; as assessment values may rise in prosperous areas and fall in other neighbourhoods, again there maybe dramatic year to year changes in property values and an increase in variety and property types (Owens, 2000).

Most countries are faced with the problem of finding professional, qualified appraisers or valuers to value land in the appropriate way. Even though they can get such professionals they are faced with the challenges such as to train them to suit their needs. Even when they do have such professionals, it is an added expense to maintain them, but at the moment most tax jurisdictions operate with sufficient staff to keep the valuation records up-to-date (Owens, 2000).

In order for the department of valuation to speed up the valuation process and make updating of their Valuation Rolls easier, Government or the relevant authority should consider having qualified valuers in each council, for them to value only that portion that is within their jurisdiction. This will make the valuers do the work efficiently, as they will work on smaller areas and will be easier for them to inspect more properties within a day. It will also speed up the valuation process as they will be concentrating on that area of work, in which they will easily adapt to and familiarize themselves with. For instance, if there are any new developments made within that area they will be able to identify them and update them easily as they will now be part of the area. Again, for those properties that the owners are never present during the time of valuation, it will be easier for the valuers to eventually meet the owners, as they will end up being part of the area and getting to know the lives of the property owners around the area. However, in the case of the council valuers who are doing valuations, as they are at the council and are not living within the areas they work on, they go on site to value the property and once there are no owners of the house on their day of inspection, they leave the property out, or inspect it through GIS, and sometimes the GIS system has not been updated, to identify important issues such as, sub-divisions, new developments and rezoning. This may give rise to queries made by property owners concerning the value of their properties, which may be above or below the correct value (Interview with Mr Kotze, Deputy Director Valuations, 2006).

Another problem is that most properties are not updated in the valuation roll even when a sale has happened through private valuation (which maybe made for bank purposes or private sale purposes) therefore the information is not presented to the council for update. That means those properties that were valued by municipal valuers will remain with their value and continue to bear the same equivalent tax burdens even when their market values diverge. In general terms, as for those property owners who had a loss in value of their properties, will have a heavier effective tax rate than property owners with appreciating property values, because their tax bills will constitute a higher percentage of their property market value though their nominal tax rate is the same in each case (Owens, 2000).

In this case, it is always advisable for the property owner to make his/her responsibility to notify the council about the fall in the property value. When the property values increase, the valuer will assess based on the market value in order to recoup the revenue, but when the market value is down normally the valuer and the tax man will not notify the owners but will continue to use the same tax rate of when the property rates were up (Stutznman, 2009).

Looking at the property taxation transparency, there is some clarity, in that, every individual owner of property is supposed to monitor his/her assessment and have questions related to them before the tentative roll is established. For instance, in South Africa a valuation roll is open for 90 days for public inspection and the public are allowed to launch any objections within that period. In informal settings the valuer can also answer the questions, explain the assessment process, how it was determined and the rationale behind it (Office of Real Property Services, 2006).

At the political point of view, politicians also influence some legislations and taxes; hence taxes require political determination and public acceptance and can not be introduced by stealth. Politicians can easily influence the legislations to vary in order to gain their popularity. For instance, tax exceptions made to certain properties, such as those that belong to the government, like lower assessment value for a low income earning property owner, or political unwillingness to increase the rate even when necessary in order not to loose political popularity. However, with the new Act in place, this problem is bound to change as there is uniformity and equitability in the rating system expected in terms of the Act, (Owens, 2000).

Though all the stated problems prevail around almost all the countries, some countries are trying to find alternative property tax systems to resolve the problems (Legum, undated)

The origins of the property tax and other views towards the tax and how other countries practised it has been discussed above.

The next chapter will introduce the Municipal Property Rates Act (no.6 of 2004), which was implemented in 2006, to harmonise the different property rating systems, and to bring about clarity and uniformity in the rating system for the whole of South Africa in order to expand the revenue base for all municipalities. The Act will be introduced, what it entails, the implication of the Act and its contribution to municipal valuation as this is the main theme for the research.

CHAPTER 3

Local Government: Municipal Property Rates Act (no: 6 of 2004)

3.1 Introduction

The Local Government Municipal Property Rates Act (no:6 of 2004) came into effect on the 2nd July, 2005, and was to be implemented by all municipalities within four years, whereby the valuation of the properties has to occur at least every four years in relation to the market value[7]. Originally, the Act was to be implemented as of the 1st July, 2006, but was only implemented on the 1st July, 2008 in the Johannesburg Metropolitan Council, as the council realized that there were still issues to be addressed before the Act could be implemented. Such issues included recruiting of professional valuers that were good at using the valuation methods. The council had to train valuers on how to value properties according to the new system, buy new equipment to do the work efficiently and new valuation rolls had to be printed and would only be opened for inspection from February to May 2008. Then the actual implementation of the Act followed in July, 2008.

According to Franzsen, 2002, there is a need for the Municipal Property Rates Act (no:6 of 2004) to be in place in order to reform municipal finance. This is so as Section 229 of the South Africa's Constitution guarantees rates on property as an autonomous source of revenue for municipalities. He further states that it is within the power of the municipalities to impose the rates on properties, which are to be regulated by the national legislation framework. The need for the framework on property rating is for the following reasons:

i. Property tax is currently levied (in all provinces) in terms of four outdated provincial ordinances retained from the previous government. This made it difficult for the use of Computer Assisted Mass Appraisal (CAMA) because

[7] Market value-determined by the comparison to what similar properties in the same municipality have sold for in an open market

physical inspection of ratable property was required. The new act will therefore provide a uniform framework for regulating the rating of property through out the country (Franzsen, 2002).

ii. Property tax is levied by municipalities and the revaluation of property was indexed 1st January, 2001. This means property prices and ratings have escalated considerably, therefore, it no longer reflects the true value of properties.

iii. The structural changes in future amalgamation of the urban and rural councils necessitate change.

iv. Amalgamation of racially segregated municipalities resulted in a number of constitutional challenges.

v. Lastly, according to the 2000 Budget Review, property rates were the most important own-tax instruments at the local government level, accounting for a 19 percent of the total local government operating income (Franzsen, 2002).

Below, is a description of the Act, its regulations and its provisions and how it addresses the above mentioned needs.

3.2 What is Municipal Property Rates Act (no.6 of 2004)?

Municipal Property Rates Act is a national law which was passed to regulate municipal council power, granted according to section 229 (1) of the Constitution of the Republic of South Africa to value and rate immovable properties located within municipal jurisdictions (Department of Local Government, undated).

3.3 What the Act entails that is different from the past legislations

The preamble to the Act is to undo the historical imbalances and to regulate the power of a municipality to impose rates on the property and achieve uniformity and certainty in the rates and taxes calculations and collections from property owners. Property is supposed to be valued in order to derive the market value, which is the amount the property would have realised if sold on the date of valuation in the open market by a willing seller to a willing buyer (Van Heeden, 2008). This is now a different approach as in the past, various municipalities, with the use of different ordinances, used different methods to calculate and collect this revenue. Rating is based on the different rates determined for different categories of ratable property such as residential properties, industrial properties, business and commercial properties, properties used for agricultural, smallholdings used for agricultural, state-owned properties, municipal properties, public service infrastructure, privately owned towns serviced by the owner, formal and informal settlements, communal land as defined in the Communal Land Rights Act, 2004, state trust land, protected areas and properties at which monuments are proclaimed (City of Johannesburg Metropolitan Council, undated).

The Act allows for municipalities to implement a transparent and fair system of exemptions, reductions and rebates through their rating policies. For instance, in the case of Johannesburg Metropolitan Municipality, the first R15 000 of the value of a house will be exempted. Other exemptions will include properties registered in the name of a religious community, parts of a special nature reserves, national parks and botanical gardens (City of Johannesburg Metropolitan Council, 2007).

The Act will also make provision for any objections and appeals processes, thus will review and simplify the process for those who may feel they are being inaccurately charged. According to section 46 of the Act, it provides for the rating of Sectional titles schemes to be charged rates on individual sectional title units in the scheme and not on property as a whole. This means that individual sectional titleholders will be assessed and the accounts will be issued to the owners of the sectional title rather than being levied against the body corporate (Sindane, 2007).

On the whole, the main focus of the Act is to have an equitable and uniform way of property valuation and a fair and transparent rating system to the public. To assist in building economically and financially viable municipalities that are enabled to meet the service delivery priorities of their communities.

3.4 Implications of the Act

The Act does not change the total revenue needs of the municipalities, nor does it set the amount in the Rand. Each Municipality will continue to set and collect property taxes in an amount sufficient to meet its needs, taking into account the likely impact of rates on local economic developments and giving attention to ratepayers and their ability to pay such rates (Government Gazette, 2004).

The first thing that property owners will be faced with after the implementation of the Act will be a short term effect of home owners having to pay more towards their rates. This is meant to be a benefit effect as in paying their rates, the money collected will be used to improve infrastructure and services in their areas. However, in the case of public service infrastructure market value, 30% will be deducted from the total market value and those properties with a market value below a prescribed valuation level will have a uniform fixed amount per property (Government Gazette, 2004).

The new Act has included new ratepayers in the valuation base and the rates base. Municipalities are supposed to drastically lower their cent in Rand in order not to shock the rates payers, taking into consideration that in terms of the New Act their rating base will be expanded. The cent in the Rand will also be reviewed from time to time, whenever new valuations take place. In order to protect property owners the New Act provides for the Minister of Provincial and Local Government with consultations with the Minister of Finance to have a maximum percentage on how rates may be increased. The Act also protects property owners by providing the Member of the Executive Council (MEC) for Local Government in a Province to monitor if municipalities comply with the prerequisites of the Act and to take action if needs be. The intention of the Act is not to interfere with the national economic policies or the economic activities of the nation as a whole (City of Tshwane, undated).

Municipalities are also faced with a challenge to find enough qualified property valuers to value properties in their jurisdiction and the long period to be taken for valuation. According to Gerhard Kotze, CEO ERA Property Group, at present it takes Gauteng local authority approximately seven to eight months to value one property for sub-division purpose. In this case, municipalities are supposed to either hire qualified staff to value properties or to train the existing staff. In the case of City of Johannesburg, the Valuation Department only filled in the vacant posts it had and trained the existing staff: that includes candidate valuers, senior valuer and Valuation Managers. The training was based more on how they are supposed to value property according to the New Act and to do away with the previous valuations (City of Johannesburg, undated). On the other hand, Buffalo City was faced with the challenge of finding registered valuers, which lead to lengthy court cases due to the raised objections, thereby delaying the process of fully implementing the Act (Seti, 2006).

In this case, it is still going to take long to do the valuations considering the constant flux of sales and purchases in the market that may make it hard for the valuers to complete the task. In the areas where the valuation is already done, the data maybe outdated and may lead to disputes regarding unfair valuations (Paddock, 2007). However, the Act entails that if the data is not sufficient a mass valuation system or technique approved by a municipality concerned with the recommendations of its municipal valuer will be used. This is the most cost efficient and resourceful method, as it does not take time to be carried out (City of Cape Town, undated).

The third issue is how frequently the valuation will be updated, as in the case where there are long periods of valuation then the property values will have probably changed as mentioned above. As it is well known that the amount of land does not grow automatically with real income growth and inflation (Duffy, 2007).

According to the Act, the valuation has to be carried out after every four years, but it is the responsibility of the relevant departments to avail any relevant information to be updated on the system and on the valuation roll, hence there is a provision of a supplementary roll to be carried out in between the four years. In order to assist the implementation of the act, other departments, which work together with the valuation departments, will have to assist in updating their data to speed up the valuation process in order to have accuracy in valuations and the easy implementation of the act. This applies to the GIS department; the data captured is sometimes not accurate and sometimes outdated, in terms of: the site/stand numbering, street address, the improvements on the land which are sometimes not clear. For example orthophotos taken are sometimes not accurate or clear (Interview Mr Choabi Council Valuer, 2006). The valuation department in the City of Johannesburg is also not granted access to the other departments with relevant information that they need to use. For instance, the valuers cannot access GIS, Zoning Certificates, building plans of the properties they need to value or they have valued for verification whenever they need to, they have to make a request from the relevant departments to find such information. This means that other departments which are relevant to the valuation department will also be affected by the implementation of the act in order to make the valuation for property rating purposes to be done with ease (Interview Mr Choabi Council Valuer, 2006).

The fifth issue that the act has brought about is compelling farm owners to pay rates on their land. This is going to be a new thing for the farmers and might be a problem for the local authorities to compel them to pay for their farmland. Some farmers have the resistance to pay as they already pay; levies such as District Municipal levies and some farms have minimal services such as water, electricity and sanitation and that farming is a low income generating sector. In this case the Act has made concessions that will require Municipalities to take into account when rating farmland. They are supposed to consider the services that municipalities provide to such farmlands, the contributions of agriculture to local economy and to the social and economic welfare of farm workers (Seti, 2006).

The implication of the Act also applies to the local authorities themselves who will be faced with improving their valuation expertise and improving their equipment to speed up the valuations process for the purpose of property tax. The local authorities are also faced with hiring new qualified valuers to do the valuation process properly by applying the different valuation approaches effectively. This means more spending by the local authorities, as if that is not enough, the qualified valuers will also have to go through training on how to apply the new Act and interpret it professionally to the public. Relevant institutions will have to be approached by the government to restructure courses that are closely related to what the new act requires in terms of valuations. Candidates will have to be trained in such a way that will make them ready for valuations according to the way municipalities and other valuation companies would want them to. This is to be implemented in a way that would be highly recognised as professionals in the field of valuation, in order to promote the main objective of the act, which is uniformity. For instance, Ethekwini Municipality had to hire 250 data collectors to assist with the valuation of properties in terms of the Act, whilst City of Johannesburg used its own valuers (Seti, 2006).

The policy makers should have liaised with the relevant institutions in order for the Act not to interfere with their terms and regulations. Botanical Society Conservation Unit analysed the Act as bringing about pressure on the environment or biodiversity loss. This is analysed with reference to the National Environmental Management Act No. 107 of 1998 (NEMA); which has written a paper that outlines the environmental impact, both positive and negative of the Municipal Property Rates Act (no: 6 of 2004). The team concluded that the results of the changing or inappropriate land uses put pressure on the environment. The strongest signals in this case that influence land use decisions are holding costs and opportunity costs of capital, of which property rates are a growing consideration. For instance, the Durban municipality charges higher rates on vacant land, encouraging owners to develop their land. The team also feels that the Act had an opportunity to consider giving rebates to sound land management and penalties to non-compliance with environmental regulation and by-laws (Botha, 2004).

Municipalities through the property regime promote land development by giving landowner certain signals that make landowners increase the value of their property without considering the impact on the environment (Botha, 2004). A few signals will be outlined to give a view of the negative impacts of the act towards the environment. Municipalities do this by charging high rates on vacant land, thus promoting development on those vacant lands, to avoid high rates and leading to loss of natural open space. For example, Durban was rating 10.806% of its vacant land value and is considered to be very high. Municipalities also influence poor environmental management by property owners, by devaluing neglected properties. This is done in Australia, where neglected properties and those invaded by alien weed are devalued (Botha, 2004).

In conclusion, it is evident from the literature reviewed that the past rating systems that were used lacked uniformity and were not clear in terms of how rates are calculated and who had to pay rates. Some areas were not included in the rating rolls, therefore did not contribute to the tax base. At the same time some ratepayers did not see any need for settling their rates, as they did not see its benefit in terms of service delivery. The new Act will bring about uniformity in the rating system, as the whole country will be using the same rating system (valuing land and improvements) and there will also be an increase in the municipal finances as most properties are included in the tax base (such properties are each sectional title units, farms). The assumption is that property owners will be more co-operative and pay their property rates.

The chapters 3 and 4 will be an illustrations and analyses of the findings from interviews conducted with the relevant stakeholders, in relation to the new Municipal Property Rates Act (no: 6 of 2004).

CHAPTER 4

Research Methodology

4.1 Overview of the Research Process

Looking at the Literature reviewed the implications of the new Act and relevant information that was not in the past Acts, there was a need to select a case study and collect primary data in order to see how far the new Act can change the existing rating systems. The main objective was to see the impact of the Act on the previous rating systems and the factors of the new valuation system that will impede the implementation of the new Act. An exploratory research methodology is used.

4.2 Exploratory Research

An exploratory study is normally undertaken where there is not much known about the situation at hand or where there is lack of information on how similar problems have been solved in the past (Rontio, 2007). This method therefore is relevant to this study because the new Act has just been passed, to have a uniform way of rating of properties in all councils, in South Africa. As in the past, different Provinces had their different valuations and rating systems.

In order to compile the research a case study was selected, then primary data was collected as well as secondary data. The case study is defined, and the selected case study introduced. Then the two methods of data collection, primary and secondary data are described together with illustrations about the way they were carried out throughout the research.

4.3 Case Study

This is one of a descriptive research in which detailed data about a single individual or group is gathered through investigation. It attempts to understand a single person, unit, institution or concept from in depth collection of information, recording and analysis (De Vos, Strydom, Fouche, Delport, 2005)***.***

This study is trying to address the questions “why” and “how”; as a result, case studies are most helpful in answering such questions in order to find out about a contemporary set of events over which the researcher has either minimal or no control. In addition, case study research brings us to an understanding of a complex issue or object and can extend experience or add strength to what is already known through previous research. It also emphasises detailed contextual analysis of a limited number of events or conditions and their relationships (Yin, 1994).

The case study selected the Metropolitan Centre, where the actual implementation of the new Act started, Township Mass valuation is made on all properties, and the rate is set on the market value of all the different properties in Johannesburg.

4.4 Selection of the Case Study

The case study for this research focuses mostly on the Metropolitan Council, in Braamfontein, Johannesburg, as it is the only municipal council in Johannesburg that has always had a Valuation Department. It has always carried out the valuations for the rest of Johannesburg. The Ekhuruleni Municipality is presently trying to have its own valuations, but it has not expanded and they mostly outsource valuers, who value properties in their jurisdiction, and compile market valuation reports for such properties. The information gathered by the private valuers is then included in the valuation rolls, for ratings to be determined for each individual property submitted by the valuer. But at the Metropolitan Council, there is a valuation department that has its own recruited valuers to do the valuations of property and include the properties in their valuation roll. The other reason why the council is selected as the case study is because it is chosen as the first council to implement the Act (Interview with the Director of Valuations, 2006).

Presented below are the profiles of the case study in this report from which data was mostly gathered; the Metropolitan Council, Valuation Department and how they operate and their hierarchical structure. Figure 4.1 shows the map of the City of Johannesburg with the Metropolitan council clearly demarcated. On the map all the areas in Region B are the areas that the Valuation Department has to cover in terms of valuation including Johannesburg CBD, which falls within Region F.

Note: The map below is a new map of the Administration Regions, which the council uses.

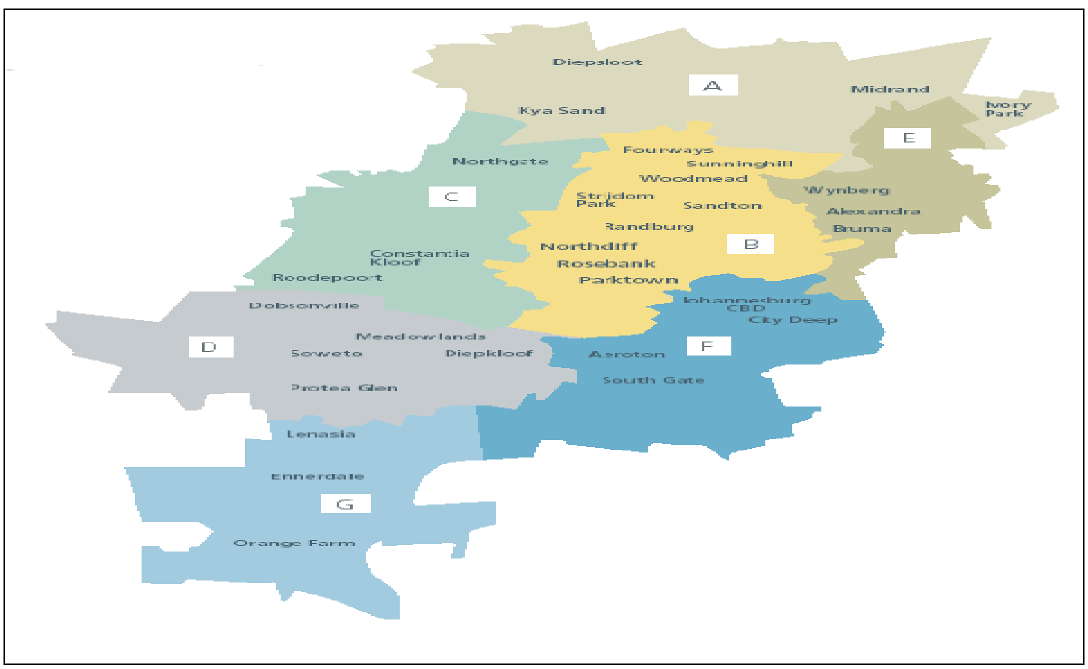

Figure 4.1: Map of the Administrative Regions of the City of Johannesburg
Source: City of Johannesburg 2008

As mentioned before, the Metropolitan council is the only one that has always had a valuation department, with its own valuers valuing properties all around Johannesburg. This is the area where the impact of the new Property Rates act is to be felt and executed. As a result, the study used the case study method in order to explore what is happening in that single unit with regard to the impact of the Property Rates Act, 2004.

Below is a short description of the Valuation Department within the Metropolitan Council. The description is made according to Figure 4.2. organogram.

4.4.1 Valuation Services

The valuation services are answerable to The Executive Director, Corporate Services. Then the valuations directorate is led by the Director, three Deputy Directors (in charge of three distinct departments, namely Municipal Valuations, Ad Hoc Valuations and Administrations), four Managers, four Senior Valuers, three Assistant Valuers and Administration Assistants (City of Johannesburg, 2006).

4.4.2 Valuation Services: Hierarchical structure

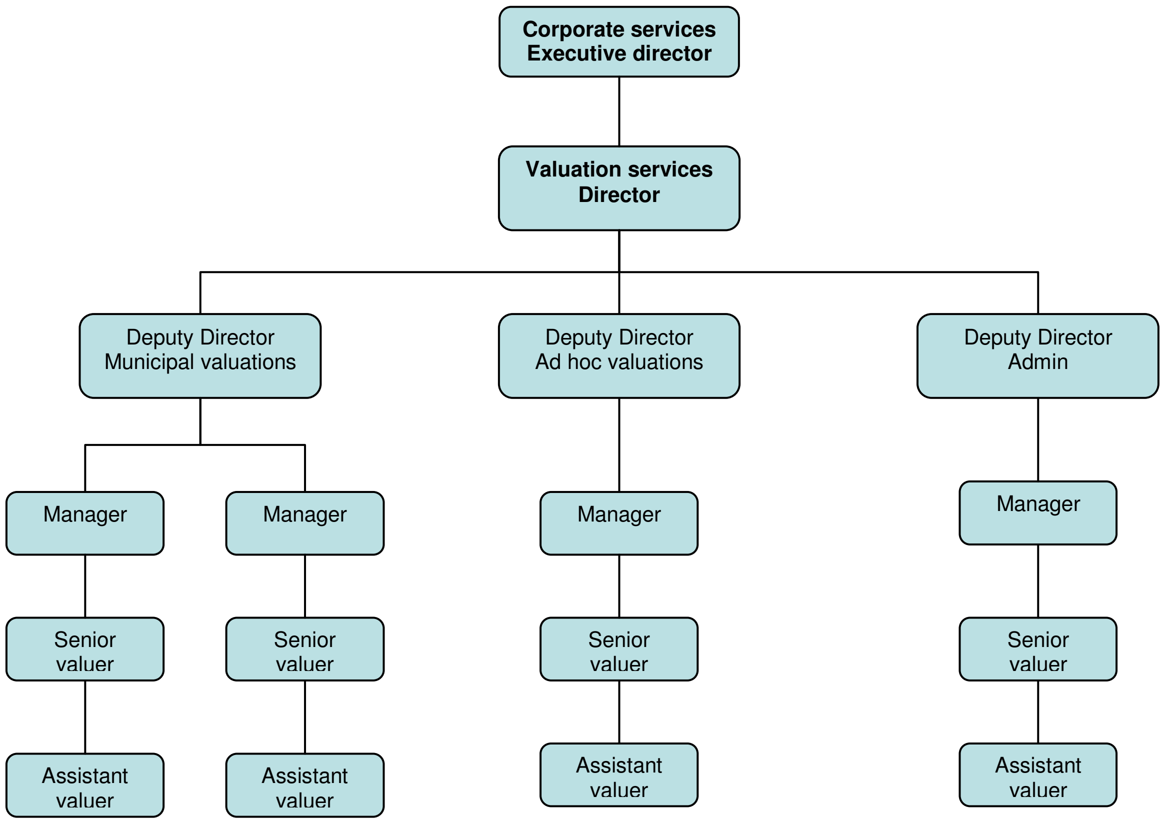

Figure 4.2: Department of Valuations Hierarchical Structure (organogram)
Source; City of Johannesburg 2004

In 2005, City of Johannesburg had five (5) candidate valuers out of eight (8) valuers who were still pursuing their studies in order to be professional valuers. In this case are still designated as assistant valuers. Hence, it is necessary for the department to train valuers in order to be professionals before the implementation of the new Act.

4.4.3 Services Rendered by the Valuation Department

It is the responsibility of the Valuation Directorate to set up an accurate rate base for the City of Johannesburg. In order to ensure this, there are annual general and supplementary valuations done in which the valuation rolls must contain the market values of all ratable properties within the boundaries of the city.

There is also a help desk service that the Directorate offers to external clients, including Property Developers, Attorneys, Valuers, General Public. There is also an accessible website available for both external and internal clients to access relevant information and comments that will improve the service. In order for the department to work and achieve its objectives, it works closely with the relevant departments such as: Geographical Information Systems (GIS), Town Planning, Finance and Legal Services (Jozinet, 2006).

Succeeding sub-chapter gives an illustration of how the valuation process is made in order to come up with the value of a property. It is a method used internationally and locally, the valuation department at the Metropolitan council also uses this valuation process.

4.5 The Valuation Process

Below are the steps that lead to a point where the value of the property is derived. This can be read by the public from the City of Johannesburg website[8] (Jozinet, 2006).

4.5.1 Definition of the problem

This is the first step that the valuer has to follow, whereby he/she identifies the client or the intended user of the property, what the property is used for, what it may be used for and the purpose of valuing that property. The date of valuation instruction is important, as well as the date of property inspection. During the property inspection, the valuer also identifies the characteristics of the property;

[8] Jozinet website- www.jozinet.co.za

this includes location of the property and property rights of the property. The valuer is supposed to make assumptions about the property and its condition (Jozinet, 2006).

4.5.2 Scope of Work

This is the step where the valuer collects relevant data concerning the property in order to have a perfect description of the property. The valuer has to do a market area data collection, which includes the general characteristics of the region, city and neighbourhood.

Data on the subject property is collected by the valuer identifying specific characteristics of land and improvement and any personal property, business assets. Having looked at the subject property, the valuer then researches to find comparable properties to the subject property. This includes the sales that have currently occurred, listings, offerings, vacancies, cost and depreciation, income and expenses, capitalization rates (Jozinet, 2006).

4.5.3 Data Analysis

In this area the valuer makes the market analysis, that is; the demand, supply, marketability studies, analysis about the subject property and then determines the highest and best use (Hbu) of the property. Thus valuing the property as if it is vacant, analyzing the ideal improvements and analyzing the property as improved.

4.5.4 Land Value opinion

This is where the valuer applies the approach of valuations, which are relevant for the property use. The valuer then reconciles the value indications and gives the final opinion of the property value and gives a report on how the value of the property was derived (Appraisal Institute, 2005).

The valuation process is still used now though at the moment the Valuation Department is faced with the implementation of the new Act, Municipal Property Rates Act, 2004. The legislation has brought about an increase in the number of properties in the coming Valuation Rolls, which will lead to an increase in Municipal finance (Jozinet, 2006).

4.6 Data Collection

To collect data, two processes of data were used, namely primary data and secondary data collection because for case study methodology it is recommended that many sources of evidence coming together in the same set of facts of findings be used (Yin, 1994).

4.7 Primary Data

In collecting primary data an imperial approach is used, whereby data that relies on the experience of observations is made public. In-depth interviews were undertaken whereby the researcher orally interviewed the respondents using interview questions. “Interviews can yield a great deal of useful information” Leedy & Ormond (2001:159). During interviews, the researcher took notes rather than using a tape recorder to ensure comprehensive encoding of information.

Semi interview questions were drawn in order to get the views of Council valuers, which are two chief valuers, one senior and one junior valuer. Then two private valuers from two different property companies were interviewed in addition to one bank valuer. The semi interview layout is split into three sections/themes. The first section/theme of the questions deals more with effects of the new Act, such as revaluations of properties once it is implemented. It is aimed at getting the opinions of the interviewees on the major characteristics of the Act, if the Act will cause pressure on the existing human and other resources; if there will be extra training of staff and extra resources needed; and if there will be any problems that will be caused by the new property valuation method.

The second section of the semi interview questions is aimed at finding out if the new Act will be efficient and will be a cost-benefit strategy. Finding out if the Act will solve previous problems, challenges the local authorities are faced with in terms of property rates collections, the period it will take to implement the Act in all provinces and any costs that may be incurred in the implementation of the Act.

The last section is the most important section which finds the major impact the Act has achieved in Municipal revenue: whether it will increase or decrease the revenue base and what the revenue collected will be mostly used for.

The interview process was carried out by the researcher, whereby the researcher was the interviewer. During the process listened to the interviewees and noted their responses.

4.8 Secondary data

Secondary data is used, which is the kind of information mostly used to build up a literature review, which tries to answer the research questions and test the hypothesis. This kind of data collection involves the utilisation of the existing data Szabo and Strang (1997 in Heaton 1998) suggested that secondary data analysis is a more convenient approach especially to the students researchers, because it allows them to cover a wider geographical or temporal range and larger scale studies using a small budget. In addition, it saves time to recollect the readily available data. Most of this data that falls within this category is used to form the literature of this research.

This secondary data used is from those books, articles and papers available in the local libraries that relate more on property valuations and rates collection, as well as reports made by other researchers on property valuations and property rates collections in South Africa and other countries. Local Government: Municipal Property Rates Act (no: 6 of 2004) was used to see what it entails that will make a difference in the past property rating system. A Valuation Roll was also examined in order to see how the properties are entered or rather recorded how the calculations are done and the townships that the valuers have managed to capture. Reports that have been made with regard to the valuation system in South Africa and public comments made concerning the Act and the valuation of properties are used.

The Independent Development Plans (IDPs), are used as they give a structure of Municipalities and their departmental duties, all the Acts and Ordinances that were used to regulate municipal rates and taxes, Local Government finance reports, National Budget speeches (mostly through the use of the internet) were also referred to, especially on the sections concerning property rates and tax collections. The financial mail, property news magazines, news paper articles and other magazines that are related to property taxation, government finances, business finance and those with sections on the taxation policy were used to gather information that made the researcher understand more about the topic of the research report and make use of the information in compiling the research report.

4.9 Scope and Limitations

The research focuses on Property Rates as it forms part of Municipal Finances. The focus is mostly the Metro Municipality, in Braamfontein, as it is the only Municipality in which all valuations of property are done by municipal valuers, in order to come up with a rate based on the value of the properties valued. Private valuers around Johannesburg were also interviewed to obtain different views about the Act, besides those from the council valuers. The research is also limited to Johannesburg, as it is the area that the researcher is familiar with and the scope of the study and period of study is not very wide. The research does not cover all provinces.

Furthermore, the limitation of the study is that the Act has just been passed in June 2005 and its implementation was to take place in July 2006 by Municipalities, but it was postponed to 1st of July 2008 (as mentioned in the previous chapters). In this case it has not yet been implemented by private valuers and the Banks. This implementation of the Act by all municipalities is set to extent for at least four years, meaning the private valuation companies can only start fully using the Act then. Hence, it is not going to be easy to evaluate the Act and its implementation given the short period of the study, as well as the focus, which will be mostly the views from the Metro Council valuers.

The second limitation is that information of such data on revenue collected could not be given out to the public as it is confidential. In this case to get information on the revenue collected per month, per six months and per year is difficult. One had to make use of the internet and read the annual reports and budgets that only have a general figure of a year period. In this case, the report focuses more on procedural implications of the Act (as illustrated in the questionnaire) rather than quantifying the actual increase or decrease that municipalities would expect from the Act.

4.10 Conclusion

The interviewees were made aware of the research, in order for them to be given the option to respond or not. As the interviews were made as a way of data collection, the researcher assured confidentiality as it was expected from the interviewees. In this case, the data collected will only be used for the purpose of the research and will be shared with the academic institution with which the researcher is a student. That means the researcher promised to have a lifelong commitment to act ethically in maintaining strict confidentiality, presenting the findings honestly and the interviewees remaining anonymous.

The chapter five is the research results and analysis of the findings. The results will follow the sequence of how the questions were drawn in the semi interview sheets.

CHAPTER 5

Data analysis and findings

5.1 Introduction

According to Marshall and Rossman (1989), data analysis involves putting together the structure, order and meaning to the mass of collected data. Qualitative data analysis is therefore a search for general statements about relationships among categories of data. De Vos *et al.* (2002) stated that data analysis and interpretation could best be presented in a spiral image. For the purpose of this research, the data collected is organised using computer database Microsoft Word and Excel for efficiency. To establish a clear message and comprehension, the data was repeatedly read. As suggested by Leedy & Ormond (2001), the researcher tried to identify statements that are relevant to the topic. This entails separating relevant and irrelevant information in the interview. The relevant information was divided into segments that reflect particular thought. Furthermore, the segments were divided into categories that reflect different meaning of the facts discovered. The data is then integrated and summarized.

The study focuses more on municipal valuation, the new rating system and the contribution of the new Act in terms of municipal revenue. These being the views of the municipal valuers, private valuers and bank valuers.

The analysis of the findings of this study will focus on the theme questions and the sub questions outlined in the interview papers. They are structured in themes that read as follows:

i. The implementation of the new Property Rates Act (no:6 of 2004) will need revaluation of properties.
ii. The implication of the Act in terms of efficiency and cost benefits
iii. The Acts impact on Municipal revenue

5.2 The Implementation of the new Property Rates Act, 2004 will need revaluation of properties

5.2.1 Views on the major characteristics of the Act

Valuers in this particular case observe that the Act harmonises the problem of assessment rating in the whole country, as now property will be valued at its market value and will be valued as land and its improvement. It is believed that, with the Act including sectional titles and farms into the system, this is going to increase the pool of properties contributing to the property rates income/revenue. This is predicted to be so as sectional title properties are to be assessed as individual houses and farmlands are to be included in the valuation roll as well. But as for the bank valuers, the valuing of land and its improvements is not a problem because they have always used the combined method, and they always have to compile two valuation reports, the replacement valuation for insurance purposes and market value valuations.

5.2.2 Impact on resources (Human and other)

Though the Act is a good thing it is going to put pressure on the existing human resources and other resources. In terms of human resources, the municipality has lost a lot of staff in the past years due to low salaries paid to valuers. In this case, the Council has to employ qualified valuers. The combination of valuing land and improvements concurrently is going to need more valuers and more time to assess properties. This is also going to place more pressure on administration staff, as the valuation entries will increase in number from 150 000 to 200 000 entries, due to additional properties in the valuation roll (like sectional title units and farmlands).

In terms of other resources such as valuation equipments and new computer software to mention a few, the valuation will be problematic as government does not act promptly, but has to go through processes and ordering of equipment until the council approves the buying of such needed equipment. For instance, some items like the valuation measuring wheel have since been ordered for a period of two years now. The other thing is that the computer systems used are about 5 years old or more and need updating or to be replaced altogether. There is a need for computer assisted mass valuation techniques and information should be made available by accurate public domain information for each property in terms of cadastral, land use, zoning and existing improvements information. This is suggested as in the council only those departments that deal with such information have access to the information. For instance, only GIS people have access to GIS information.

As a result of lost valuers, there is a need for the council to recruit more valuers that should be trained. They will need to be introduced to the new Act, through workshops and seminars. Private valuers also suggested that the valuers should have competency tests whereby they come with accurate market value using the five different methods of valuation and graded on their levels of competency.

5.2.3 Period of Valuation

The Valuation Department will have to take three months or more to train the valuers before the valuation process; hence the City of Johannesburg is given four years to implement the Act. Other factors that will contribute to longer valuations of properties are the inclusion of more properties in the valuation roll (as stated before) but not the new form of valuation; land and improvement. This is evident with those provinces that have always used this form of valuation, they experienced that this type of valuation is not time consuming but its application has not been seriously recognised. Budgeting was not well drawn; proper valuation was not always done. The other reason that will make valuation seem longer is entering all properties in the valuation roll and the printing of the valuation roll books by the administration staff.

5.2.4 Changes in the frequency of valuations

This Act is not going to change the frequency of valuation as the valuations have always been done every four years. Supplementary valuations are also going to be done every financial year (every year starting from 1 July to 1 June the following year) to update information on some properties if subdivisions have been done to such properties. Again the supplementary valuations are done if there are changes in the market values and adjustments are to be made to the properties. The only problems foreseen are the ratings of the properties, if not accurate and too high they will discourage owners of the properties from paying their rates and taxes. But surely the rating system is not going to change, the rate in the rand is the same for all properties, regardless of location or geographical features, what will change is the value of the property.

5.2.5 Foreseen problems of the new valuation system

Valuers from the banks, who will only start making use of the Act after the implementation period, in 2008, see the Act as going to increase the value of properties, as properties will be now valued as land and improvement. Therefore, valuers are concerned that people will struggle to pay their rates. In this case, the banks will not grant loans to people, as one of the main things that the bank looks at before giving any loans is if the property put as security does not have a bad record of not paying his/her levies, such as rates, management fees, insurance and maintenance. They are also concerned that the bank is not going to gain if the rates are too high, because when the rates are high the banks will be forced to give less property loans, as people will not get the amounts they want due to high rates.

Secondly, the problem foreseen is that most sectional title owners paid their rates through Body Cooperates. According to the new Act individual sectional title owners will be added to the billing account, but it will not be easy to find the names of owners of each sectional title as they are registered at the deeds office, by use of erf numbers not by names of owners. So the delivery of their rates bills will not be very easy. Meaning re-valuation of these sectional titles properties will have to be made in order to capture the correct information.

Lastly, another problem is that most properties are omitted from the Valuation roll, as some of the valuations that have been made by private valuers or bank values is not presented to the council for update. Therefore, some properties will remain to bare their tax burdens even if the market value of their properties diverges. In this case, the Council will not be able to collect the correct revenue, but a lower fraction of what they are supposed to for those properties that have appreciated in value. Same thing applies for those property owners of depreciated property values will continue to pay a heavy effective tax rate.

5.2.6 Rating differences

The rating will differ according to location and geographical features of the areas. The valuers commended that according to the new Act, properties will be grouped in categories based on their zonings, the actual use of the properties or their geographical area at which the property is located. Hence there will be variations of assessment rates against the different property categories.

5.3 The implication of the Act, in terms of efficiency and cost benefit

5.3.1 The Act as a solution to the past problems

The Act will be efficient in those areas that are impossible to value, by allowing valuers to carry out the valuation from the use of maps and Geographic Information System (GIS). For instance, if the owners of the property do not allow strangers into their gardens and if during the day the owners of the properties are absent, the Act allows for valuers to search such property in the system and value it from the office. As section 45(2)(a) of the Act states that the inspection of properties is optional, as they can look up the place with the use of aerial photos in the office and make valuations for that property from the office. This is considered efficient but it can be a problem as there maybe no updates done to the property (from the information in the office) that can raise queries in terms of the value of that property.

5.3.2 Cost Benefits of the Act

In terms of cost benefit, there is foreseen increase in Municipal revenue due to additional properties included in the tax base and due to valuation of both land and improvements. This revenue will assist more on public infrastructure, by development or maintenance of such infrastructure. It will also be used to buy any new equipment, to train new valuers and other costs that may be incurred during the implementation process.

5.3.3 Challenges facing local authorities

There are challenges that the local authorities are faced with in terms of property rating and collection, in dealing with the property owners, farm owners, sectional title owners and other problems such as implementation of the Act in the rest of the provinces and the costs that will be incurred in the implementation of the Act.

In terms of property rating and collection, the rating of the property is not a problem but collection is going to be a problem as it has always been, whereby the owners address is incorrect or is not captured in the system and cannot be traced in order to send the bills. As mentioned before, with the sectional title owners it will be difficult to trace them all as their names are not all captured in the system, but the name of the developer will be the one appearing in the register of deeds, with just the stands within that development.

Property owners as well as farm owners have common anxiety that the new system will be inflationary; therefore there will be resistance by some owners to allow valuers into their houses or to pay their property rates.

5.3.4 Period of implementation of the Act

According to the Act the implementation of the Act has to take four years, but because the Act has been postponed to 2008, the rates policy took a long time the preparation of the valuation rolls was only ready in 2007. Valuers believe that by 2012 the implementation of the act will be spread across all provinces and that most municipalities will be familiar with the Act and the methods of valuations.

5.3.5 Expected expenses due to the implementation of the Act

The issue of recruiting and training valuers also delays the process: leading to additional costs, to hire and train new staff. The printing of the Act booklets, flayers, pamphlets to make people aware of the Act and printing of new valuation rolls is costly, as the department had to spend thousands on this. The valuers are also entitled to R4, 100 locomotion allowances which also add costs to be incurred due to the implementation of the Act. In this case, there are expected costs to be incurred in order to implement the Act efficiently. The council valuers believe that the costs are already budgeted for and therefore do not expect any problems, as everyone one in charge will have a better understanding of the need to implement the Act. But as for the private valuers, they foresee high costs, as they may have to hire more qualified valuers and may need more equipment to speed up the valuation process.

5.4 The Act's impact on Municipal Finance (Property rates revenue)

5.4.1 Will the new system increase/decrease the revenue base?

The new rating system if applied professionally will definitely increase the revenue base with the evidence provided in the above paragraphs. The increase in revenue will not be seen immediately or rather in the initial years, but with time when people are used to the new system and problems are overcome there will be a visible increase in revenue.

The Mayoral Committee Council Meeting, held in City of Johannesburg on the 3rd March 2006, a meeting on determination of the assessment rates rebates on remissions of assessment rate for 2006/2007, the committee proposed to increase the prevailing rate in the Rand of 11.32 cents, which was set by the council in 2005, estimated to yield R2, 9 billion during that financial year, by 5.0% from 11.32 to 11.89 cents, in which the increase will yield R152.3 million. This rate was levied for the year 1st July 2007 to 30 June 2008 and was not to be changed. The proposed increases were to comply with the budgeted needs of the council in respect of the 2006/2007 financial year.

According to the presentation on the findings of the Local Government expenditure and budget review made by T.V. Pillay, Chief Director: Local Government, National Treasury in October 2006, showed that aggregate municipal budgets have nearly doubled from the years 2002/03 at R64 billion to R119 billion in the years 2005/06. This increases being driven by the growth in capital expenditure (22% growth) and grants from National Government which rise from R2,3 billion (19% of municipal budget) to R6.4 billion (38% of municipal budget) in 2005/06. This huge increases indicated in the municipal budget in the years 2005/06 are mainly as a contribution of electricity sales with R24 billion contribution, while property rates at R17 billion, grants and subsidies at R13, 2 billion, water tariffs at R11, 2 billion and refuse, levies and fines contributing R28 billion (Cities Network: Well-governed Cities Reference Group meeting, October 2006).

With the findings made on municipal budget, property rates as part of the municipal budget are illustrated below on their own to show their performance from the year 2003 before the Act to June 2006, after the Act was passed, which is after the year, June 2004. A table is drawn showing the actual revenue collected by the City of Johannesburg, Metropolitan Municipality as compared to the budget of the year 2006.

Table 5.1: Property rates performance (2005-2006)

	Actual R000	**Actual R000**	**Budget**	**Budget Variance**	**Growth**
Year 1	**2003**	**2004**	**2004**	**2004**	**2003-2004**
Property Rates for **(2003-2004)**	2 212 324	2 478 632	2 518 272	2%	12%
Year 1	**2005**	**2006**	**2006**	**2006**	**2005-2006**
Property rates for **(2005-2006)**	2 684 309	2 918 647	2 986 376	-2%	9%

Source: City of Johannesburg Annual Report 2003/04 and 2005/2006

The data is taken from a group statement of financial performance for the year ended 30th June 2004 and 30th June 2006. For the purpose of the study, property rates are the only concern, leaving out the other municipal revenues that contribute to the revenue base of the municipality. The actual turnover of revenue in 2003 was R2 212 324 and increased to R2 478 632 in 2004, while in 2005 the revenue was R2 684 309 and in 2006 it increased to R2 918 647, thus illustrating a difference of R534 338. This difference is seen as the growth in the property rates performance, at a growth rate of 9% detected from the year 2005 to the year 2006. The reason being that in 2005, the new Act was now in place and most properties were valued as land and improvements, which lead to an increase in property values therefore, causing an escalation in property rates and taxes. The other reason being that most properties that were not included in the tax base, such as sectional titles properties and farm buildings are now included in the tax base, whereas before the new Act was implemented they were not included in the tax base. Looking at the trends in construction property rates are estimated to increase for the next five years from the year 2007 (Mellet, 2006). With this growth detected in the two years above, it is evident that property rates are increasing at a high rate, thus supporting the views of the valuers interviewed, as they showed that property rates are going to go up and are not going to be affected by the implementation of the new Act. Their views are based on the fact that property values are increasing in South Africa and that the new Act introduces them to valuing property as land and improvements. The improvements contribute a lot to value of properties as people improve their properties with the notion that they are increasing their property values. The increase in value of property will also cause an increase in property rates, therefore contributing to a growth in the Municipal revenue.

In this case, the implementation of the new Act will contribute to an increase in Municipal revenue, as estimated by the City of Johannesburg, (2008), the proposed rates increase since 2004, is 8.5% for residential properties and 15.8% for non-residential properties while the estimated total rates income increased by a further 1% taking into account natural growth. With the growth detected in the two financial years (in the figure 2 above) and looking at the economic reports that show a steady growth in property values, by 6% in South Africa, due to the 5,5% interest rate cuts in 2008, there is a great expectation of a steady growth in Municipal revenue contributed mainly by property rates (Du Toit, 2008). In the past, only land value was captured, but now there is a new Act that requires that land and improvements be used to calculate market value. It implies there is going to be an increase in rate collection and the inclusion of other properties such as farms, individual sectional titles properties plus the newly developed properties. This shows a positive financial possibility for municipalities to continue to generate more revenue in order to maintain, redevelop and develop council services.

5.4.2 Utilization of the revenue collected

As mentioned in the previous chapters, property rates are the most important sources of general revenue for municipalities, as they contribute about 20.7% of the City of Johannesburg's tax (City of Johannesburg, online). Revenue from property rates is used to fund services that benefit the community as a whole, thus by maintaining and developing streets, roads, sidewalks, lighting, storm drainage facilities; and building and operating clinics, parks and cemeteries. The revenue is also used to fund municipal administration, such as computer equipment and stationary, cost of governance such as council and community meetings. The revenue is spent within a municipality where the citizens and voters have a voice in decisions on how the revenue is spent as part of the Integrated Development Plans (IDPs) and budget processes.

Therefore the revenue collected will still continue to be used for the above mentioned services, and will also contribute a lot to needs of the council during the implementation of the Act. The revenue will be used to train, buy necessary resources needed and to also maintain and develop council services.

CHAPTER 6

Conclusion and comments

6.1 Introduction

The prevailing problem that is observed and gathered as the interviews were carried out is that the Act is passed and implemented without consideration to the departmental problems being solved first. The first prerequisite of the Act is to revalue all properties within the City of Johannesburg jurisdiction in order to value them as land and improvements, in order to calculate property rates for each property. Most valuers are not qualified as professional valuers. In the valuation Department, there are only three professional valuers, who are old and are close to retiring. But as for the rest of the valuers, some are registered as candidate valuers for years and some are just doing valuations as assistant valuers. In this case, the council is challenged with hiring qualified valuers or liaising with relevant institutions to have candidates trained, in a better standard of education until a point where they are considered as professional valuers.

Relevant institutions should be approached by the government to restructure courses, in order for them to tally perfectly with what the Act entails, in terms of valuations and application of the rate. In this case, when the candidates are employed as valuers in Banks, Government Departments and Private Companies will be able to value property professionally.

In order for the department of valuation to speed up the valuation process and make updating of their Valuation Rolls easier, the Government or the relevant authority should consider having qualified valuers in each council, for him/her to value only that portion that is within his/her jurisdiction. This will make the valuers do the work more professionally, as they will work on a smaller portion, whereby it will be easier for them to inspect more properties within a day. It will also speed up the valuation process as they will be concentrating on that particular area of work, so they will be familiar with the location, and if any developments are made within that area they will be able to identify and update them easily as they will now be part of the area. Again, for those properties that the owners are never in doors, it will be easier for them to eventually meet them, as they will end up being part of the area and getting to know the lives of the property owners around the area. But in the case of the valuers who are doing valuations, as they are at the council and are not living within the areas they work in, they go on site to value the property and once there are no owners of the house on their day of inspection, they leave out the property, or inspect it through GIS. Sometimes the GIS system has not been updated, to identify important things like, sub-divisions and other new developments made to existing properties. Hence, there will be queries made by property owners concerning the value of their properties, which may be more or less than the property values.

The Local Government and the relevant authorities should sit down with the banks, as they are also affected by the changes in the property rating systems/ policies. This will help them to both gain from the implementation of the Act. This will also help the banks restructure their rates in such a way that is going to make them gain, at the same time, help them to keep their clients.

The departments, which work together with the valuation departments, should have their data updated to speed up the valuation process in order to have accuracy in valuations. This applies to the GIS department, the data captured should be accurate and up-to-date, in terms of the site/stand numbering, street address, the improvements on the land should be clearer (orthophotos taken should be accurate and clear). The valuation department should be granted access to the other department's relevant information that they need to use. For instance, the valuers cannot access GIS, Zoning Certificates, building plans of the properties they need to value or they have valued for verification whenever they need to, they have to make a request from the relevant departments to find them such information, in this case the process takes time.

Most of the government properties around Johannesburg do not pay rates and taxes; therefore do not contribute much to the tax base. There are lots of government properties around, which occupy a substantial portion of land, which could add so much to municipal revenue if valued and included in the tax rolls. Such departments that occupy such properties should be given the obligation to pay their property rates, once the properties are valued and rated. They should also pay the normal rate and no exceptions should be made, then soon there will be an increase in the Municipal finance, which will bring about better services for Johannesburg as a whole.

6.2 Conclusions

In conclusion, though the research is limited by the fact that the implementation of the Act was postponed to 2008, the Act looks good especially in making the valuation process uniform in the rest of South Africa as its implementation is being done by the City of Johannesburg Metropolitan Council and the rest of the municipalities. If the council does abide by the terms of the Act, there is a foreseen increase in revenue to be collected and there is going to be a huge growth in the coming years in municipal revenue, which if managed well will also contribute to the betterment of municipal services provision or rather encourage willingness to pay property rates.

The introduction of the new Act saw the demise of old property rating systems in various Provinces. However, the implementation of the new Act still faces several challenges. These are:

i. Inadequate professional valuers
ii. Inexperienced graduate valuers

Thus, to fill the capacity gap, Councils may either have to hire qualified, private valuers or train new valuers.

Suggested areas of research include the following;

i. A critical evaluation of the ease of implementation of the new Municipal Property Rates Act (no: 6 of 2004).
ii. Performance of the rates collection since the introduction and implementation of the Act and
iii. The extent of revenue utilization for improving existing services.

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